Informal comment period for Underground Storage Tanks: Technical Standards and Corrective Action Requirements (9VAC25-580) and Petroleum Underground Storage Tank Financial Responsibility Requirements (9VAC25-590)

The following draft contains changes that are being considered to these regulations: Underground Storage Tanks: Technical Standards and Corrective Action Requirements (9VAC25-580) and Petroleum Underground Storage Tank Financial Responsibility Requirements (9VAC25-590). The Underground Storage Tanks: Technical Standards and Corrective Action Requirements (9VAC25-580) regulation establishes operation and maintenance requirements and technical standards for tank design and installation, leak detection, spill and overfill control, corrective action and tank closure. It also establishes notification, operator training and delivery prohibition requirements in addition to release reporting, investigation, response and corrective action requirements when leaks occur. The Petroleum Underground Storage Tank Financial Responsibility Requirements Regulation (9VAC25-590) establishes requirements for the demonstration of financial responsibility for cleanup and third party costs associated with petroleum releases from underground storage tanks.

Agency staff have drafted amendments to these regulations in response to recent amendments made by EPA to federal regulations (specifically 40 CFR Part 280) in response to the federal EPAct of 2005. Revisions have been made to the Underground Storage Tanks: Technical Standards and Corrective Action Requirements (9VAC25-580) and the Petroleum Underground Storage Tank Financial Responsibility Requirements (9VAC25-590) and will be presented to the State Water Control Board at a future meeting. The agency plans to use the Final Exempt regulatory process as allowed by § 2.2-4006(A)(4)(c) of the Code of Virginia to amend these regulations because they are not materially different from the federal requirements.

Revisions have been made to Virginia's regulations to be consistent with the recent changes to 40 CFR 280 in the following areas:

- Secondary containment requirements for new and replaced tanks and piping;
- Compatibility requirements;
- Notification changes;
- Periodic operation and maintenance requirements for UST systems;
- UST systems deferred in the 1988 UST regulation (e.g., airport hydrant fuel distribution systems, field constructed tanks and emergency power generators);
- Inclusion of new release prevention and detection technologies;
- Updating codes of practice;
- Editorial corrections and technical amendments; and
- USTs previously deferred from regulation, airport hydrant fuel distribution systems, field constructed tanks and USTs that are temporarily closed are now required to comply with financial responsibility requirements.

A detailed list of changes being made to the regulations is located after the draft regulatory language (see pgs. 98-111). As a courtesy, the entire text of both the Underground Storage Tanks: Technical Standards and Corrective Action Requirements (9VAC25-580) and the Petroleum Underground Storage Tank Financial Responsibility Requirements (9VAC25-590) are being provided below. Amendments are not being proposed to all sections.

Prior to presenting this amendment to the State Water Control Board for adoption, the agency is holding an informal comment period. The informal comment period will end Monday, May 1, 2017. Anyone wishing to submit written comments for the public comment file may do so by mail, email or fax to Lisa Dewey, Office of Spill Response and Remediation, P.O. BOX 1105, Richmond, VA 23218, phone: 804-698-4216, FAX: 804-698-4266, email: lisa.dewey@deq.virginia.gov .

CHAPTER 580
UNDERGROUND STORAGE TANKS: TECHNICAL STANDARDS AND CORRECTIVE ACTION REQUIREMENTS

Part I
Definitions, Applicability and ~~Interim Prohibition~~Installation Requirements for Partially Excluded UST Systems

9VAC25-580-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Aboveground release" means any release to the surface of the land or to surface water. This includes, but is not limited to, releases from the aboveground portion of a UST system and aboveground releases associated with overfills and transfer operations as the regulated substance moves to or from a UST system.

"Airport hydrant fuel distribution system" (also called airport hydrant system) means an UST system which fuels aircraft and operates under high pressure with large diameter piping that typically terminates into one or more hydrants (fill stands). The airport hydrant system begins where fuel enters one or more tanks from an external source such as a pipeline, barge, rail car, or other motor fuel carrier.

"Ancillary equipment" means any devices including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from an UST.

"Below ground release" means any release to the subsurface of the land and to ~~ground water~~ groundwater. This includes, but is not limited to, releases from the belowground portions of an underground storage tank system and belowground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank.

"Beneath the surface of the ground" means beneath the ground surface or otherwise covered with earthen materials.

"Board" means the State Water Control Board.

"Building official" means the executive official of the local government building department empowered by § 36-105 of the Code of Virginia to enforce and administer the Virginia Uniform Statewide Building Code (USBC).

"Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

"Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons must have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 USC § 9601 et seq.).

"Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the UST.

~~"Community water system" means a public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.~~

"Connected piping" means all underground piping including valves, elbows, joints, flanges, and flexible connectors attached to a tank system through which regulated substances flow. For

the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems should be allocated equally between them.

"Containment Sump" means a liquid-tight container that protects the environment by containing leaks and spills of regulated substances from piping, dispensers, pumps and related components in the containment area. Containment sumps may be single walled or secondarily contained and located at the top of the tank (tank top or submersible turbine pump sump), underneath the dispenser (under-dispenser containment sump), or at other points in the piping run (transition or intermediate sump).

"Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

"De minimis" means trivial and beyond the intent of regulation, as that term is used at 53 Fed. Reg. 37108-37109.

"Delivery prohibition" is prohibiting the delivery, deposit, or acceptance of product to an underground storage tank system that has been determined to be ineligible by the board for such delivery, deposit, or acceptance.

"Delivery prohibition tag" means a tag, device, or mechanism on the tank's fill pipes that clearly identifies an underground storage tank system as ineligible for product delivery. The tag or device is easily visible to the product deliverer and clearly states and conveys that it is unlawful to deliver to, deposit into, or accept product into the ineligible underground storage tank system. The tag, device, or mechanism is generally tamper resistant.

"Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST system (e.g., tank from piping).

"Director" means the director of the Department of Environmental Quality.

"Dispenser" means equipment located aboveground that dispenses regulated substances from the UST system.

"Dispenser system" means the dispenser and the equipment necessary to connect the dispenser to the underground storage tank system.

"Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

"Excavation zone" means the volume containing the tank system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

~~"Existing community water system or existing potable drinking water well" means a community water system or potable drinking water well is in place when a new installation or replacement of an underground tank, piping, or motor fuel dispensing system begins.~~

"Existing tank system" means a tank system used to contain an accumulation of regulated substances or for which installation has commenced on or before December 22, 1988. Installation is considered to have commenced if:

1. The owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system; and if

2. a. Either a continuous on-site physical construction or installation program has begun; or

b. The owner or operator has entered into contractual obligations-which cannot be cancelled or modified without substantial loss-for physical construction at the site or installation of the tank system to be completed within a reasonable time.

"Farm tank" is a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

"Field-constructed tank" means a tank constructed in the field. For example, a tank constructed of concrete that is poured in the field, or a steel or fiberglass tank primarily fabricated in the field is considered field-constructed.

"Flow-through process tank" is a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

"Free product" refers to a regulated substance that is present as a nonaqueous phase liquid (e.g., liquid not dissolved in water).

"Gathering lines" means any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

"Hazardous substance UST system" means an underground storage tank system that contains a hazardous substance defined in § 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (42 USC § 9601 et seq.) (but not including any substance regulated as a hazardous waste under subtitle C of RCRA) or any mixture of such substances and petroleum, and which is not a petroleum UST system.

"Heating oil" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy, and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

"Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

"Liquid trap" means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants), for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

"Maintenance" means the normal operational upkeep to prevent an underground storage tank system from releasing product.

"Motor fuel" means ~~petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of gasohol, and is~~ a complex blend of hydrocarbons typically used in the operation of a motor engine~~. This definition applies to blended petroleum motor fuels such as biodiesel and ethanol blends that contain more than a de minimis amount of petroleum or petroleum-based substance.~~, such as motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any blend containing one or more of these substances (for example: motor gasoline blended with alcohol).

~~"Motor fuel dispenser system" means the motor fuel dispenser and the equipment necessary to connect the dispenser to the underground storage tank system. The equipment necessary to connect the motor fuel dispenser to the underground storage tank system may include check valves, shear valves, unburied risers or flexible connectors, or other transitional components that are beneath the dispenser and connect the dispenser to the underground piping.~~

"New tank system" means a tank system that will be used to contain an accumulation of regulated substances and for which installation has commenced after December 22, 1988 (See also "existing tank system").

"Noncommercial purposes" with respect to motor fuel means not for resale.

"On the premises where stored" with respect to heating oil means UST systems located on the same property where the stored heating oil is used.

"Operational life" refers to the period beginning when installation of the tank system has commenced until the time the tank system is properly closed under Part VII (9VAC25-580-310 et seq.) of this chapter.

"Operator" means any person in control of, or having responsibility for, the daily operation of the UST system.

"Overfill release" is a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

"Owner" means:

1. In the case of a UST system in use on November 8, 1984, or brought into use after that date, any person who owns an UST system used for storage, use, or dispensing of regulated substances; and

2. In the case of any UST system in use before November 8, 1984, but no longer in use on that date, any person who owned such UST immediately before the discontinuation of its use.

The term "owner" shall not include any person who, without participating in the management of an underground storage tank or being otherwise engaged in petroleum production, refining, and marketing, holds indicia of ownership primarily to protect the holder's security interest in the tank.

"Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, association, any state or agency thereof, municipality, county, town, commission, political subdivision of a state, any interstate body, consortium, joint venture, commercial entity, the government of the United States or any unit or agency thereof.

"Petroleum UST system" means an underground storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

"Pipe" or "piping" means a hollow cylinder or the tubular conduit that is constructed of nonearthen materials that routinely contains and conveys regulated substances from the underground tank(s) to the dispenser(s) or other end-use equipment. Such piping includes any elbows, couplings, unions, valves, or other in-line fixtures that contain and convey regulated substances from the underground tank(s) to the dispenser(s). Pipe or piping does not include vent, vapor recovery, or fill lines.

"Pipeline facilities (including gathering lines)" are new and existing pipe rights-of-way and any associated equipment, facilities, or buildings.

~~"Potable drinking water well" means any hole (dug, driven, drilled, or bored) that extends into the earth until it meets groundwater that supplies water for a noncommunity public water system, or otherwise supplies water for household use (consisting of drinking, bathing, cooking, or other similar uses). Such wells may provide water to entities such as a single-family residence, group of residences, businesses, schools, parks, campgrounds, and other permanent or seasonal communities.~~

"Product deliverer" is any person who delivers or deposits product into an underground storage tank.

~~"Public water system" means a system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes (i) any collection,~~

~~treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system and (ii) any collection or pretreatment storage facilities not under such control that are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system."~~

"RCRA" means the federal Resource Conservation and Recovery Act of 1976 as amended (42 USC § 6901 et seq.).

"Regulated substance" means an element, compound, mixture, solution, or substance that, when released into the environment, may present substantial danger to the public health or welfare, or the environment. The term "regulated substance" includes:

1. Any substance defined in § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (42 USC § 9601 et seq.), but not any substance regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act (RCRA) of 1976 (42 USC § 6901 et seq.); and

2. Petroleum, including crude oil or any fraction thereof, that is liquid at standard conditions of temperature and pressure (60°F and 14.7 pounds per square inch absolute). The term "regulated substance" includes but is not limited to petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons ~~derived from crude oil through processes of separation, conversion, upgrading, and finishing~~, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

"Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from an UST into ~~ground water~~groundwater, surface water or subsurface soils.

"Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or a leak has occurred into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

"Repair" means to restore to proper operating condition a tank, pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment or other UST system component that has caused a release of product from the UST system. or has failed to function properly.

~~"Replace" means, when applied to underground storage tanks and piping, to remove an underground storage tank and install a new underground storage tank or to remove and put back greater than 50% of the length of a piping run excluding connectors (such as flexible connectors) connected to an underground storage tank.~~

"Replaced" means

(a) For a tank - to remove a tank and install another tank.

(b) For piping - to remove 50 percent or more of piping and install other piping, excluding connectors, connected to a single tank. For tanks with multiple piping runs, this definition applies independently to each piping run.

"Residential tank" is a tank located on property used primarily for dwelling purposes.

"SARA" means the Superfund Amendments and Reauthorization Act of 1986.

"Secondary containment" or "secondarily contained" means a release prevention and release detection system for ~~an underground~~ a tank ~~and/or~~or piping. ~~For purposes of this definition, release prevention means an underground tank and/or piping having an inner and outer barrier and release detection means a method of monitoring the space between the inner and outer barriers for a leak or release of regulated substances from the underground tank and/or piping.~~ This system has an inner and outer barrier with an interstitial space that is monitored for leaks. This term includes containment sumps when used for interstitial monitoring of piping.

"Septic tank" is a water-tight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The

effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

"Storm water or waste water collection system" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

"Surface impoundment" is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.

"Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.

"~~Underdispenser~~ Under-dispenser containment" or " UDC" means containment underneath a dispenser system designed to ~~that will~~ prevent leaks from the dispenser and piping within or above the UDC from reaching soil or groundwater.

"Underground area" means an underground room, such as a basement, cellar, shaft or vault, providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

"Underground release" means any belowground release.

"Underground storage tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground. This term does not include any:

1. Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

2. Tank used for storing heating oil for consumption on the premises where stored;

3. Septic tank;

4. Pipeline facility (including gathering lines):

a. Regulated under the Natural Gas Pipeline Safety Act of 1968 (49 USC § 1671 et seq.)

b. Regulated under the Hazardous Liquid Pipeline Safety Act of 1979 (49 USC § 2001 et seq.); or

c. Which is an intrastate pipeline facility regulated under state laws comparable to the provisions of the law referred to in subdivisions 4 a or 4 b of this definition ;

5. Surface impoundment, pit, pond, or lagoon;

6. Storm water or wastewater collection system;

7. Flow-through process tank;

8. Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

9. Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

The term "underground storage tank" or "UST" does not include any pipes connected to any tank which is described in subdivisions 1 through 9 of this definition.

"Upgrade" means the addition or retrofit of some systems such as cathodic protection, lining, or spill and overfill controls to improve the ability of an underground storage tank system to prevent the release of product.

"UST system" or "tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

"Wastewater treatment tank" means a tank that is designed to receive and treat an influent wastewater through physical, chemical, or biological methods.

9VAC25-580-20. Applicability.

A. The requirements of this chapter apply to all owners and operators of an UST system as defined in 9VAC25-580-10 except as otherwise provided in subsections B~~,~~ and C~~, and D~~ of this section. ~~Any UST system listed in subsection C of this section must meet the requirements of 9VAC25-580-30.~~

1. Previously deferred UST systems. Airport hydrant fuel distribution systems, UST systems with field-constructed tanks, and UST systems that store fuel solely for use by emergency power generators must meet the requirements of this chapter as follows:

a. Airport hydrant fuel distribution systems and UST systems with field-constructed tanks must meet the requirements in Part X.

b. UST systems that store fuel solely for use by emergency power generators installed before September 15, 2010 must have met all applicable requirements of this chapter before September 15, 2010, except that the requirements of Part IV must be met before [insert date three years after effective date of rule].

c. UST systems that store fuel solely for use by emergency power generators installed on or after September 15, 2010 must meet all applicable requirements of this chapter at installation.

2. Any UST system listed in subsection C of this section must meet the requirements of 9VAC25-580-30.

B. Exclusions. The following UST systems are excluded from the requirements of this chapter:

1. Any UST system holding hazardous wastes listed or identified under Subtitle C of the Solid Waste Disposal Act ~~(33 USC § 1251 et seq.),~~(42 USC § 6901) or a mixture of such hazardous waste and other regulated substances.

2. Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under § 402 or § 307(b) of the Clean Water Act.

3. Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

4. Any UST system whose capacity is 110 gallons or less.

5. Any UST system that contains a de minimis concentration of regulated substances.

6. Any emergency spill or overflow containment UST system that is expeditiously emptied after use.

C. ~~Deferrals.~~ Partial Exclusions. Parts II, III, IV, V, VII, ~~and~~ IX, and X of this chapter do not apply to any of the following types of UST systems:

1. Wastewater treatment tank systems (not covered under 9VAC25-580-20 B 2 of this section);

2. Aboveground storage tanks associated with:

a. Airport hydrant fuel distribution systems regulated under Part X; and

b. UST systems with field-constructed tanks regulated under Part X.

3. Any UST systems containing radioactive material that are regulated under the Atomic Energy Act of 1954 (42 USC § 2011 et seq.); and

~~3.~~4. Any UST system that is part of an emergency generator system at nuclear power generation facilities ~~regulated~~ licensed by the Nuclear Regulatory Commission and subject to Nuclear Regulatory Commission requirements regarding design and quality criteria, including but not limited to ~~under~~ 10 CFR Part 50~~, Appendix A;~~.

~~4. Airport hydrant fuel distribution systems; and~~

~~5. UST systems with field-constructed tanks.~~

~~D. Deferrals. Part IV does not apply to any UST system that was installed before September 15, 2010 (i.e., the effective date of the secondary containment requirements in subdivision 7 of 9VAC25-580-50) and stores fuel solely for use by emergency power generators.~~

9VAC25-580-30. ~~Interim prohibition for deferred~~ Installation requirements for partially excluded UST systems.

~~No person may~~Owners and operators must install an UST system listed in subsection C of 9VAC25-580-20 ~~for the purpose of~~ storing regulated substances ~~unless the UST system~~ (whether of single-wall or double-wall construction)~~:~~ that meets the following requirements:

1. Will prevent releases due to corrosion or structural failure for the operational life of the UST system;

2. Is cathodically protected against corrosion, constructed of ~~noncorrodible~~ non-corrodible material, steel clad with a ~~noncorrodible~~ non-corrodible material, or designed in a manner to prevent the release or threatened release of any stored substance; and

3. Is constructed or lined with material that is compatible with the stored substance.

Note: The following codes of practice may be used as guidance for complying with this section:

(a) NACE International Standard, Practice SP0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection",

(b) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems",

(c) American Petroleum Institute Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems", or

(d) Steel Tank Institute Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems."

9VAC25-580-40. Permitting and inspection requirements for all UST systems.

In all instances of installation, upgrade, repair and closure where a UST system is constructed, enlarged, altered, repaired or closed all UST systems must be permitted and inspected in accordance with 9VAC25-580-50, 9VAC25-580-60, 9VAC25-580-110, 9VAC25-580-160, 9VAC25-580-170, 9VAC25-580-310, ~~and~~ 9VAC25-580-320~~.~~, 9VAC25-580-380, and 9VAC25-580-390.

Part II

UST Systems: Design, Construction, Installation, and Notification

9VAC25-580-50. Performance standards for new UST systems.

~~Owners and operators must obtain a permit, the required inspections and a Certificate of Use issued in accordance with the provisions of the Virginia Uniform Statewide Building Code. No UST system shall be installed or placed into use without the owner and operator having obtained the required permit, inspections and Certificate of Use from the building official under the provisions of the Virginia Uniform Statewide Building Code (§ 36-97 et seq. of the Code of Virginia).~~

~~In the case of state-owned facilities the Department of General Services shall function as the building official in accordance with § 36-98.1 of the Code of Virginia.~~

~~In the case of federal facilities the building official must be contacted. Owners and operators must obtain a permit, the required inspections and a Certificate of Use must be issued in accordance with the provisions of the Virginia Uniform Statewide Building Code.~~

In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, all owners and operators of new UST systems must meet the following requirements.

Tanks and piping installed or replaced on or after September 15, 2010 must be secondarily contained and use interstitial monitoring in accordance with 9VAC25-580-160 7, except for suction piping that meets the requirements of 9VAC25-580-140 2 a (2) (a) through (e). Secondary containment must be able to contain regulated substances leaked from the primary containment until they are detected and removed and prevent the release of regulated substances to the environment at any time during the operational life of the UST system. For cases where the piping is considered to be replaced, the entire piping run must be secondarily contained.

1. Tanks.

Each tank must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion, in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:

a. The tank is constructed of fiberglass-reinforced plastic;

NOTE: The following ~~industry~~ codes of practice may be used to comply with subdivision 1 a of this section:

(1) Underwriters Laboratories Standard 1316, ~~"Standard for~~ "Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products~~";~~, Alcohols, and Alcohol-Gasoline Mixtures"; or ~~Underwriters~~

(2) Underwriter's Laboratories of Canada ~~CAN4-S615-M83,~~ S615 "Standard for Reinforced Plastic Underground Tanks for ~~Petroleum Products~~ Flammable and Combustible Liquids."~~; or American Society of Testing and Materials Standard D4021-86, "Standard Specification for Glass-Fiber-Reinforced Polyester Underground Petroleum Storage Tanks."~~

b. The tank is constructed of steel and cathodically protected in the following manner:

(1) The tank is coated with a suitable dielectric material;

(2) Field-installed cathodic protection systems are designed by a corrosion expert;

(3) Impressed current systems are designed to allow determination of current operating status as required in subdivision 3 of 9VAC25-580-90; and

(4) Cathodic protection systems are operated and maintained in accordance with 9VAC25-580-90; or

NOTE: The following codes ~~and standards~~ of practice may be used to comply with subdivision 1 b of this section:

(a) Steel Tank Institute "Specification for ~~STI-P3~~sti-P3®~~System of~~ Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks";

(b) Underwriters Laboratories Standard 1746, "External Corrosion Protection Systems for Steel Underground Storage Tanks";

(c) Underwriters Laboratories of Canada ~~CAN4-S603-M85,~~S603, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids," and ~~CAN4-G03.1-M85,~~S603.1, "Standard for ~~Galvanic~~ External Corrosion Protection Systems for Steel Underground Tanks for Flammable and Combustible Liquids,"~~ and CAN4-S631-M84,~~and S631 "Standard for Isolating Bushings for Steel Underground Tanks Protected with~~ Coatings and Galvanic Systems~~ External Corrosion Protection Systems~~"; or~~

~~(d) National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and Underwriters Laboratories Standard 58 "Standard for Steel Underground Tanks for Flammable and Combustible Liquids."~~

(d) Steel Tank Institute Standard F841, "Standard for Dual Wall Underground Steel Storage Tanks"; or

(e) NACE International Standard Practice SP 0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection," and Underwriters Laboratories Standard 58, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids."

c. The tank is constructed of ~~a steel-fiberglass-reinforced-plastic composite;~~ steel and clad or jacketed with a non-corrodible material; or

NOTE: The following ~~industry~~ codes of practice may be used to comply with subdivision 1 c of this section:

(1) Underwriters Laboratories Standard 1746, "External Corrosion Protection Systems for Steel Underground Storage Tanks~~,~~;" ~~or the Association for Composite Tanks ACT-100, "Specification for the Fabrication of FRP Clad Underground Storage Tanks."~~

(2) Steel Tank Institute ACT-100® Specification F894, "Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks";

(3) Steel Tank Institute ACT-100-U® Specification F961, "Specification for External Corrosion Protection of Composite Steel Underground Storage Tanks"; or

(4) Steel Tank Institute Specification F922, "Steel Tank Institute Specification for Permatank®".

d. The tank construction and corrosion protection are determined by the board to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than subdivisions 1 a through c of this section.

2. Piping. The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:

a. The piping is constructed of ~~fiberglass-reinforced plastic.~~ a non-corrodible material.

NOTE: The following codes ~~and standards~~ of practice may be used to comply with subdivision 2 a of this section:

(1) Underwriters Laboratories ~~Subject~~Standard 971, "~~–~~Nonmetallic Underground Piping for Flammable Liquids"; or

(2) ~~Underwriters Laboratories Standard 567, "Pipe Connectors for Flammable and Combustible and LP Gas";~~ Underwriters Laboratories of Canada Standard S660, " Standard for Nonmetallic Underground Piping for Flammable and Combustible Liquids."

~~(3) Underwriters Laboratories of Canada Guide ULC-107, "Glass Fiber Reinforced Plastic Pipe and Fittings for Flammable Liquids"; and~~

~~(4) Underwriters Laboratories of Canada Standard CAN 4-S633-M81, "Flexible Underground Hose Connectors."~~

b. The piping is constructed of steel and cathodically protected in the following manner:

(1) The piping is coated with a suitable dielectric material;

(2) Field-installed cathodic protection systems are designed by a corrosion expert;

(3) Impressed current systems are designed to allow determination of current operating status as required in subdivision 3 of 9VAC25-580-90; and

(4) Cathodic protection systems are operated and maintained in accordance with 9VAC25-580-90; or

NOTE: The following codes ~~and standards~~ of practice may be used to comply with subdivision 2 b of this section:

(a) ~~National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code";~~

~~(b) American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage Systems";~~

~~(c)~~ American Petroleum Institute ~~Publication~~ Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"; ~~and~~

~~(d) National Association of Corrosion Engineers Standard RP-01-69, "Control of External Corrosion on Submerged Metallic Piping Systems."~~

(b) Underwriters Laboratories Subject 971A, "Outline of Investigation for Metallic Underground Fuel Pipe";

(c) Steel Tank Institute Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems";

(d) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems"; or

(e) NACE International Standard Practice SP 0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection".

c. The piping construction and corrosion protection are determined by the board to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in subdivisions 2 a through b of this section.

3. Spill and overfill prevention equipment.

a. Except as provided in ~~subdivision~~subdivisions 3 b and c of this section, to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators must use the following spill and overfill prevention equipment:

(1) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin); and

(2) Overfill prevention equipment that will:

(a) Automatically shut off flow into the tank when the tank is no more than 95% full;

(b) Alert the transfer operator when the tank is no more than 90% full by restricting the flow into the tank or triggering a high-level alarm; or

(c) Restrict the flow 30 minutes prior to overfilling, alert the transfer operator with a high level alarm one minute before overfilling, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling.

b. Owners and operators are not required to use the spill and overfill prevention equipment specified in subdivision 3 a of this section if:

(1) Alternative equipment is used that is determined by the board to be no less protective of human health and the environment than the equipment specified in subdivision 3 a (1) or (2) of this section; or

(2) The UST system is filled by transfers of no more than 25 gallons at one time.

c. Flow restrictors used in vent lines may not be used to comply with subdivision 3 a (2) of this section when overfill protection is installed or replaced on or after [insert effective date of the amendment].

d. Spill and overfill protection equipment must be periodically tested or inspected in accordance with 9VAC25-580-82.

4. Installation. ~~All tanks and piping~~

a. The UST system must be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions.

b. Owners and operators must obtain a permit and the required inspections in accordance with the provisions of the Virginia Uniform Statewide Building Code. No UST system shall be installed or placed into use without the owner and operator having obtained the required permit and inspections from the building official under the provisions of the Virginia Uniform Statewide Building Code (§ 36-97 et seq. of the Code of Virginia).

In the case of state-owned facilities, the Department of General Services shall function as the building official in accordance with § 36-98.1 of the Code of Virginia.

In the case of federal facilities, the building official must be contacted. Owners and operators must obtain a permit and the required inspections must be issued in accordance with the provisions of the Virginia Uniform Statewide Building Code.

NOTE: Tank and piping system installation practices and procedures described in the following codes of practice may be used to comply with the requirements of subdivision 4 of this section:

~~a.~~(1) American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage System";

~~b.~~(2) Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems"; or

~~c.~~(3) ~~American National Standards Institute Standard B31.3, "Petroleum Refinery Piping," and American National Standards Institute Standard B31.4 "Liquid Petroleum Transportation Piping System."~~ National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code" and Standard 30A, "Code for Motor Fuel Dispensing Facilities and Repair Garages".

NOTE: These industry codes require that prior to bringing the system into use the following tests be performed: (i) tank tightness test (air); (ii) pipe tightness test (air or hydrostatic); and (iii) precision system test. ~~in accordance with NFPA 329 (detection of.05 gal/hr leak rate).~~

5. Certification of installation. All owners and operators must ensure that one or more of options a through d of the following methods of certification, testing, or inspection is performed, and a ~~Certificate of Use~~ permit has been issued in accordance with the provisions of the Virginia Uniform Statewide Building Code to demonstrate compliance with subdivision 4 of this section. A certification of compliance on the UST Notification form must be submitted to the board in accordance with 9VAC25-580-70.

a. The installer has been certified by the tank and piping manufacturers;

b. The installation has been inspected and certified by a registered professional engineer with education and experience in UST system installation;

c. All work listed in the manufacturer's installation checklists has been completed; or

d. The owner and operator have complied with another method for ensuring compliance with subdivision 4 of this section that is determined by the board to be no less protective of human health and the environment.

6. Release detection. Release detection shall be provided in accordance with Part IV (9VAC25-580-130 et seq.) of this chapter.

7. ~~Secondary containment.~~

~~a. Each new or replaced petroleum underground storage tank, or piping connected to any petroleum underground storage tank, installed within 1,000 feet of any existing community water system or existing potable drinking water well must be secondarily contained in accordance with 9VAC25-580-140 A. In the case of a replacement of a petroleum underground storage tank or the piping connected to the petroleum underground storage tank, the secondary containment requirements shall apply only~~

~~to the specific petroleum underground storage tank or piping run being replaced, not to other petroleum underground storage tanks and connected pipes comprising such system. The entire piping run must be secondarily contained if more than 50% of the length of a piping run connected to a petroleum underground storage tank is to be replaced.~~

~~b. Motor fuel dispenser systems. Each new motor fuel dispenser system installed within 1,000 feet of any existing community water system or existing potable drinking water well shall have underdispenser containment in accordance with 9VAC25-580-140 B. A motor fuel dispenser system is considered new when:~~

~~(1) A dispenser is installed at a location where there previously was no dispenser (new UST system or new dispenser location at an existing UST system), or~~

~~(2) An existing dispenser is removed and replaced with another dispenser and the equipment used to connect the dispenser to the UST system is replaced. This equipment may include unburied flexible connectors or risers or other transitional components that are beneath the dispenser and connect the dispenser to the piping.~~

~~c. If an owner or operator intends to install a new petroleum UST system that is located greater than 1,000 feet from any existing community water system or existing potable drinking water well and the owner or operator will install a potable drinking water well at the new facility that is within 1,000 feet of the petroleum underground storage tanks, piping, or motor fuel dispenser systems as part of the new UST installation, then secondary containment and underdispenser containment are required, regardless of whether the well is installed before or after the petroleum underground storage tanks, piping, and motor fuel dispenser systems are installed.~~

~~d. A tank owner or operator who intends to install an UST system or motor fuel dispenser system that will not meet the requirements in subdivision 7 a or c of this subsection must demonstrate to the board that the distance from the proposed new or replacement petroleum underground storage tank or piping or motor fuel dispenser system to the existing community water system or existing potable drinking water well is greater than 1,000 feet.~~

~~(1) The tank owner or operator shall make such a demonstration by submitting to the board a map showing the distance from the proposed new or replacement petroleum underground storage tank or piping or motor fuel dispenser system to the existing community water system or existing potable drinking water well. If the distance is greater than 1,000 feet but less than 2,000 feet, the map must be prepared by a licensed professional surveyor. If the distance is greater than 2,000 feet, the map is not required to be prepared by a licensed professional surveyor. The tank owner or operator must submit the map to the board at least 30 days prior to the installation.~~

~~(2) The map must delineate the distance from the proposed new or replacement petroleum underground storage tank or piping or motor fuel dispenser system to the closest existing community water system or existing potable drinking water well. The distance must be measured from the closest part of the proposed new or replacement petroleum underground storage tank or piping or motor fuel dispenser system to:~~

~~(a) The closest part of the nearest existing community water system including such components as the location of the wellhead(s) for ground water or location of the intake point(s) for surface water, water lines, processing tanks, and water storage tanks; and water distribution or service lines under the control of the community water system operator; and~~

~~(b) The wellhead of the nearest existing potable drinking water well.~~

~~e. The requirement for secondary containment does not apply to:~~

~~(1) Petroleum underground storage tanks that are not new or not replaced in a manifolded UST system;~~

~~(2) Piping runs that are not new or not replaced on petroleum underground storage tanks with multiple piping runs;~~

~~(3) Suction piping that meets the requirements at 9VAC 25-580-140 C 2 b (1) through (5) or piping that manifolds two or more petroleum USTs together;~~

~~(4) Repairs meant to restore a petroleum underground storage tank, pipe, or dispenser to operating condition. For purposes of this subsection, a repair is any activity that does not meet the definition of "replace"; and~~

~~(5) Other instances approved by the board where equivalent protection is provided.~~

Dispenser Systems. Each UST system must be equipped with under-dispenser containment for any new dispenser system installed on or after September 15, 2010.

a. A dispenser system is considered new when both the dispenser and the equipment needed to connect the dispenser to the underground storage tank system are installed at an UST facility. The equipment necessary to connect the dispenser to the underground storage tank system includes check valves, shear valves, unburied risers or flexible connectors, or other transitional components that are underneath the dispenser and connect the dispenser to the underground piping.

b. Under-dispenser containment must be liquid-tight on its sides, bottom, and at any penetrations. Under-dispenser containment must allow for visual inspection and access to the components in the containment system or be periodically monitored for leaks from the dispenser system.

9VAC25-580-60. Upgrading of existing UST systems.

Owners and operators must permanently close (in accordance with Part VII) any UST system that does not meet the new UST system performance standards in 9VAC25-580-50 or has not been upgraded in accordance with subdivisions 2 through 4 of this section. This does not apply to previously deferred UST systems described in Part X and where an upgrade is determined to be appropriate by the board.

Owners and operators must obtain a permit and the required inspections in accordance with the provisions of the Virginia Uniform Statewide Building Code (§ 36-97 et seq. of the Code of Virginia).

A permit from the building official must be obtained prior to upgrading any UST system. No upgraded UST system shall be placed into use unless and until the system is inspected in accordance with the provisions of the Virginia Uniform Statewide Building Code (§ 36-97 et seq. of the Code of Virginia).

In the case of state-owned facilities, the Department of General Services shall function as the building official in accordance with § 36-98.1 of the Code of Virginia.

In the case of federal facilities the building official must be contacted. Owners and operators must obtain a permit and the required inspections in accordance with the provisions of the Virginia Uniform Statewide Building Code (§ 36-97 et seq. of the Code of Virginia).

1. Alternatives allowed. ~~Not later than December 22, 1998, all~~All existing UST systems must comply with one of the following requirements:

a. New UST system performance standards under 9VAC25-580-50;

b. The upgrading requirements in subsections 2 through ~~5~~4 of this section; or

c. Closure requirements under Part VII of this chapter, including applicable requirements for corrective action under Part VI.

2. Tank upgrading requirements. Steel tanks must be upgraded to meet one of the following requirements in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory:

a. Interior lining. ~~A tank may be~~ Tanks upgraded by internal lining ~~if:~~ must meet the following:

(1) The lining ~~is~~was installed in accordance with the requirements of 9VAC25-580-110, and

(2) Within 10 years after lining, and every five years thereafter, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications. If the internal lining is no longer performing in accordance with original design specifications and cannot be repaired in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, then the lined tank must be permanently closed in accordance with Part VII of this chapter.

b. Cathodic protection. ~~A tank may be~~Tanks upgraded by cathodic protection ~~if the cathodic protection system meets~~ must meet the requirements of 9VAC25-580-50 1 b (2), (3), and (4) and the integrity of the tank ~~is~~ must have been ensured using one of the following methods:

(1) The tank ~~is~~ was internally inspected and assessed to ensure that the tank ~~is~~ was structurally sound and free of corrosion holes prior to installing the cathodic protection system; or

(2) The tank ~~has~~ had been installed for less than 10 years and is monitored monthly for releases in accordance with subsections 4 through ~~8~~9 of 9VAC25-580-160; or

(3) The tank ~~has~~had been installed for less than 10 years and ~~is~~was assessed for corrosion holes by conducting two tightness tests that meet the requirements of subsection 3 of 9VAC25-580-160. The first tightness test must ~~be~~ have been conducted prior to installing the cathodic protection system. The second tightness test must ~~be~~ have been conducted between three and six months following the first operation of the cathodic protection system; or

(4) The tank ~~is~~ was assessed for corrosion holes by a method that is determined by the board to prevent releases in a manner that is no less protective of human health and the environment than subdivisions 2 b (1) through (3) of this section.

c. Internal lining combined with cathodic protection. ~~A tank~~ Tanks ~~may be~~ upgraded by both internal lining and cathodic protection ~~if:~~ must meet the following:

(1) The lining ~~is~~ was installed in accordance with the requirements of 9VAC25-580-110; and

(2) The cathodic protection system meets the requirements of subdivisions 1 b (2), (3), and (4) of 9VAC25-580-50.

NOTE: The following historical codes ~~and standards may be used to comply~~ of practice were listed as options for complying with subdivision 2 of this section:

(a) American Petroleum Institute Publication 1631, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks";

(b) National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection";

(c) National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems"; and

(d) American Petroleum Institute ~~Publication~~ Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems."

NOTE: The following codes of practice may be used to comply with the periodic lining inspection requirement in subdivision 2 a (2) of this section:

(a) American Petroleum Institute Recommended Practice 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks";

(b) National Leak Prevention Association Standard 631, Chapter B "Future Internal Inspection Requirements for Lined Tanks"; or

(c) Ken Wilcox Associates Recommended Practice, "Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera."

3. Piping upgrading requirements. Metal piping that routinely contains regulated substances and is in contact with the ground must be cathodically protected in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and must meet the requirements of subdivisions 2 b (2), (3) and (4) of 9VAC25-580-50.

NOTE: The codes ~~and standards~~ of practice listed in the note following subdivision 2 b of 9VAC25-580-50 may be used to comply with this requirement.

4. Spill and overfill prevention equipment. To prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems must comply with ~~new~~ UST system spill and overfill prevention equipment requirements specified in subsection 3 of 9VAC25-580-50.

5. Release detection. Release detection shall be provided in accordance with Part IV of this chapter.

9VAC25-580-70. Notification requirements.

A. ~~Any owner who brings an underground storage tank system into use after~~ After May 8, 1986, an owner must submit notice of a tank system's existence to the board within 30 days of bringing ~~such~~the underground storage tank system into use~~,. submit, in the form prescribed in APPENDIX I of this chapter, a notice of existence of such tank system to the board.~~ Owners must use a UST Notification form approved by the board.

B. Any change in ownership, tank status ~~(e.g., temporarily/permanently closed out)~~, tank/piping systems ~~(e.g., upgrades such as addition of corrosion protection, internal lining, release detection)~~, or substance stored ~~(e.g., change from petroleum to hazardous substance)~~ requires the UST owner to submit an amended notification form, or other documentation approved by the board, within 30 days after such change/upgrade occurs or is brought into use. Owners may provide notice for several tanks using one notification form, but owners with tanks located at more than one place of operation must file a separate notification form for each separate place of operation.

~~B~~C. Under Virginia UST notification requirements effective July 1, 1987, owners of property who have actual knowledge of underground storage tanks on such property that were taken out of service before January 1, 1974, yet still in the ground, must notify the board on the notification form.

NOTE: Under the federal UST Notification Program, owners and operators of UST systems that were in the ground on or after May 8, 1986, unless taken out of operation on or before January 1, 1974, were required to notify the board in accordance with the Hazardous and Solid Waste Amendments of 1984, P.L. 98-616 (42 USC § 9603), on a form published by EPA on November 8, 1985, (50 FR 46602) unless notice was given pursuant to § 103(c) of CERCLA. Owners and operators who have not complied with the notification requirements may use portions I through VI of the ~~notification form contained in APPENDIX I of this chapter.~~ UST Notification form approved by the board.

~~C. Notices required to be submitted under subsection A of this section must provide all of the information in Sections I through VI of the prescribed form (APPENDIX I) for each tank for which notice must be given. Notices for tanks installed after December 22, 1988, must also provide all of the information in Section VII of the prescribed form (APPENDIX I) for each tank for which notice must be given.~~

~~D.~~D. All owners and operators of new UST systems must certify in the notification form compliance with the following requirements:

1. Installation of tanks and piping under subsection 5 of 9VAC25-580-50;

2. Cathodic protection of steel tanks and piping under subsections 1 and 2 of 9VAC25-580-50;

3. Financial responsibility under financial responsibility regulations promulgated by the board. under 9VAC25-590.

4. Release detection under 9VAC25-580-140 and 9VAC25-580-150.

E.F. All owners and operators of new UST systems must ensure that the installer certifies in the notification form that the methods used to install the tanks and piping comply with the requirements in subsection 4 of 9VAC25-580-50.

F.F. Beginning October 24, 1988, any person who sells a tank intended to be used as an underground storage tank must notify the purchaser of such tank of the owner's notification obligations under subsection A of this section. The statement provided in APPENDIX II of this chapterthe note below, when used on shipping tickets and invoices, may be used to comply with this requirement.

NOTE: A federal law (the Solid waste Disposal Act, as amended), requires owners of certain underground storage tanks to notify implementing agencies of the existence of their tanks. Notifications must be made within 30 days of bringing the tank into use. Consult EPA's regulations at 40 CFR Part 280.22 to determine if you are affected by this law.

Part III
General Operating Requirements

9VAC25-580-80. Spill and overfill control.

A. Owners and operators must ensure that releases due to spilling or overfilling do not occur. The owner and operator must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.

NOTE: The transfer procedures described in National Fire Protection Association Publication Standard 385 "Standard for Tank Vehicles for Flammable and Combustible Liquids" or American Petroleum Institute Recommended Practice 1007, "Loading and Unloading of MC 306/DOT 406 Cargo Tank Motor Vehicles" may be used to comply with subsection A of this section. Further guidance on spill and overfill prevention appears in American Petroleum Institute Publication 1621, "Recommended Practice 1621, for "Bulk Liquid Stock Control at Retail Outlets," and National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code."

B. The owner and operator must report, investigate, and clean up any spills and overfills in accordance with 9VAC25-580-220.

9VAC25-580-82. Periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overfill prevention equipment.

A. Owners and operators of UST systems with spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping must meet these requirements to ensure the equipment is operating properly and will prevent releases to the environment:

1. Spill prevention equipment (such as a catchment basin, spill bucket, or other spill containment device) and containment sumps used for interstitial monitoring of piping must prevent releases to the environment by meeting one of the following:

a. The equipment is double walled and the integrity of both walls is periodically monitored as described in 9VAC25-580-85 A 1 a (1) at a frequency not less than the frequency of the walkthrough inspections described in 9VAC25-580-85. Within 30 days of discontinuing periodic monitoring under this subdivision, owners and operators must conduct a test in accordance with subdivision A 1 b of this section and begin meeting the requirements of that subdivision; or

b. The spill prevention equipment and containment sumps used for interstitial monitoring of piping are tested at least once every three years to ensure the

equipment is liquid tight by using vacuum, pressure, or liquid testing in accordance with one of the following criteria:

(1) Requirements developed by the manufacturer (Note: Owners and operators may use this option only if the manufacturer has developed requirements);

(2) Code of practice developed by a nationally recognized association or independent testing laboratory; or

(3) Requirements determined by the board to be no less protective of human health and the environment than the requirements listed in subdivisions A 1 b (1) and (2) of this section.

2. Overfill prevention equipment must be inspected at least once every three years. At a minimum, the inspection must ensure that overfill prevention equipment is set to activate at the correct level specified in 9VAC25-580-50 (3) and will activate when regulated substance reaches that level. Inspections must be conducted in accordance with one of the criteria in subdivisions A 1 b (1)-(3) of this subsection.

NOTE: The following code of practice may be used to comply with subdivisions A 1 b and A 2 of this section: Petroleum Equipment Institute Publication RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities".

B. Owners and operators must begin meeting these requirements as follows:

1. For UST systems in use before [insert effective date of amendment], the initial spill prevention equipment test, containment sump test and overfill prevention equipment inspection must be conducted not later than [insert date three years after effective date of amendment]

2. For UST systems brought into use on or after [insert effective date of amendment], these requirements apply at installation.

C. Owners and operators must maintain records as follows in accordance with 9VAC25-580-120 for spill prevention equipment, containment sumps used for interstitial monitoring of piping, and overfill prevention equipment:

1. All records of testing or inspection must be maintained for three years; and

2. For spill prevention equipment and containment sumps used for interstitial monitoring of piping not tested every three years, documentation showing that the prevention equipment is double walled and the integrity of both walls is periodically monitored must be maintained for as long as the equipment is periodically monitored.

9VAC25-580-85. Periodic operation and maintenance walkthrough inspections.

A. To properly operate and maintain UST systems, not later than [insert date three years after effective date of amendment] owners and operators must meet one of the following:

1. Conduct a walkthrough inspection that, at a minimum, checks the following equipment as specified below:

a. Every 30 days (Exception: spill prevention equipment at UST systems receiving deliveries at intervals greater than every 30 days may be checked prior to each delivery):

(1) Spill prevention equipment - visually check for damage; remove liquid or debris; check for and remove obstructions in the fill pipe; check the fill cap to make sure it is securely on the fill pipe; and, for double walled spill prevention equipment with interstitial monitoring, check for a leak in the interstitial area, and

(2) Release detection equipment - check to make sure the release detection equipment is operating with no alarms or other unusual operating conditions present; and ensure records of release detection testing are reviewed and current; and

b. Annually:

(1) Containment sumps - visually check for damage, leaks to the containment area, or releases to the environment; remove liquid (in contained sumps) or debris; and, for double walled sumps with interstitial monitoring, check for a leak in the interstitial area, and

(2) Hand held release detection equipment - check devices such as tank gauge sticks or groundwater bailers for operability and serviceability;

2. Conduct operation and maintenance walkthrough inspections according to a standard code of practice developed by a nationally recognized association or independent testing laboratory that checks equipment comparable to subdivision 1 of this subsection; or

3. Conduct operation and maintenance walkthrough inspections according to a protocol developed by the board that checks equipment comparable to A 1 of this section.

B. Owners and operators must maintain records (in accordance with 9VAC25-580-120) of operation and maintenance walkthrough inspections for one year. Records must include a list of each area checked, whether each area checked was acceptable or needed action taken, a description of actions taken to correct an issue, and delivery records if spill prevention equipment is checked less frequently than every 30 days due to infrequent deliveries.

NOTE: The following code of practice may be used to comply with subdivision A 2 of this section: Petroleum Equipment Institute Recommended Practice RP 900, “Recommended Practices for the Inspection and Maintenance of UST Systems”.

9VAC25-580-90. Operation and maintenance of corrosion protection.

All owners and operators of ~~steel~~ metal UST systems with corrosion protection must comply with the following requirements to ensure that releases due to corrosion are prevented ~~for as long as~~ until the UST system is ~~used to store regulated substances:~~ permanently closed or undergoes a change-in-service pursuant to 9VAC25-580-320:

1. All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.

2. All UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:

a. Frequency. All cathodic protection systems must be tested within six months of installation and at least every three years thereafter; and

b. Inspection criteria. The criteria that are used to determine that cathodic protection is adequate as required by this section must be in accordance with a code of practice developed by a nationally recognized association.

NOTE: ~~National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems,"~~The following codes of practice may be used to comply with subdivision 2 ~~b~~ of this ~~section.~~ section:

(1) NACE International Test Method TM 0101, "Measurement Techniques Related to Criteria for Cathodic Protection of Underground Storage Tank Systems";

(2) NACE International Test Method TM0497, "Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems";

(3) Steel Tank Institute Recommended Practice R051, "Cathodic Protection Testing Procedures for STI-P3® USTs";

(4) NACE International Standard Practice SP 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection"; or

(5) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems".

3. UST systems with impressed current cathodic protection systems must also be inspected every 60 days to ensure the equipment is running properly. These systems only provide the necessary corrosion protection when in continuous operation. Such equipment shall be installed so that it cannot be inadvertently shut off.

4. For UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained (in accordance with 9VAC25-580-120) to demonstrate compliance with the performance standards in this section. These records must provide the following:

a. The results of the last three inspections required in subdivision 3 of this section; and

b. The results of testing from the last two inspections required in subdivision 2 of this section.

9VAC25-580-100. Compatibility.

1. Owners and operators must use an UST system made of or lined with materials that are compatible with the substance stored in the UST system.

2. Owners and operators must notify the board at least 30 days prior to switching to a regulated substance containing greater than 10 percent ethanol, greater than 20 percent biodiesel, or any other regulated substance identified by the board. In addition, owners and operators with UST systems storing these regulated substances must meet one of the following:

a. Demonstrate compatibility of the UST system (including the tank, piping, containment sumps, pumping equipment, release detection equipment, spill equipment, and overfill equipment.) Owners and operators may demonstrate compatibility of the UST system by using one of the following options:

(1) Certification or listing of UST system equipment or components by a nationally recognized, independent testing laboratory for use with the regulated substance stored; or

(2) Equipment or component manufacturer approval. The manufacturer's approval must be in writing, indicate an affirmative statement of compatibility, specify the range of biofuel blends the equipment or component is compatible with, and be from the equipment or component manufacturer; or

b. Use another option determined by the board to be no less protective of human health and the environment than the options listed in subdivision 2 (a) of this section.

3. Owners and operators must maintain records in accordance with subdivision 2 of 9VAC25-580-120 documenting compliance with subdivision 2 of this section for as long as the UST system is used to store the regulated substance.

NOTE: ~~Owners and operators storing alcohol blends may use the following codes to comply with the requirements of this section:~~ The following code of practice may be useful in complying with this section:

~~1.~~ American Petroleum Institute ~~Publication~~ Recommended Practice 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and ~~Service~~Filling Stations"~~; and~~.

~~2. American Petroleum Institute Publication 1627, "Storage and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations."~~

9VAC25-580-110. Repairs allowed.

Owners and operators must obtain a permit and the required inspections in accordance with the provisions of the Virginia Uniform Statewide Building Code (§ 36-97 et seq. of the Code of Virginia).

A permit from the building official must be obtained prior to repairing any UST system. No repaired UST system shall be placed into use unless and until the system is inspected in accordance with the provisions of the Virginia Uniform Statewide Building Code (§ 36-97 et seq. of the Code of Virginia).

In the case of state-owned facilities the Department of General Services shall function as the building official in accordance with § 36-98.1 of the Code of Virginia.

In the case of federal facilities the building official must be contacted. Owners and operators must obtain a permit and the required inspections in accordance with the provisions of the Virginia Uniform Statewide Building Code (§ 36-97 et seq. of the Code of Virginia).

Owners and operators of UST systems must ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs must meet the following requirements:

1. Repairs to UST systems must be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.

NOTE: The following codes ~~and standards~~ of practice may be used to comply with subdivision 1 of this section:

a. National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code";

b. American Petroleum Institute ~~Publication~~ Recommended Practice RP 2200, "Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines";

c. American Petroleum Institute ~~Publication~~ Recommended Practice RP 1631, "~~Recommended Practice for the~~ Interior Lining ~~of Existing Steel~~ and Periodic Inspection of Underground Storage Tanks"; ~~and~~

d. National Fire Protection Association Standard 326, "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair";

e. National Leak Prevention Association Standard 631, "~~Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection.~~" Chapter A. "Entry, Cleaning, Interior Inspection, Repair, and Lining of Underground Storage Tanks";

f. Steel Tank Institute Recommended Practice R972, "Recommended Practice for the Addition of Supplemental Anodes to STI-P3® Tanks";

g. NACE International Standard Practice SP 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection"; or

h. Fiberglass Tank and Pipe Institute Recommended Practice T-95-02, "Remanufacturing of Fiberglass Reinforced Plastic (FRP) Underground Storage Tanks".

2. Repairs to fiberglass-reinforced plastic tanks may be made by the manufacturer's authorized representatives or in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.

3. Metal pipe sections and fittings that have released product as a result of corrosion or other damage must be replaced. ~~Fiberglass~~Non-corrodible pipes and fittings may be repaired in accordance with the manufacturer's specifications.

4. Repairs to secondary containment areas of tanks and piping used for interstitial monitoring and to containment sumps used for interstitial monitoring of piping must have the secondary containment tested for tightness according to the manufacturer's instructions, a code of practice developed by a nationally recognized association or independent testing laboratory, or according to requirements established by the board within 30 days following the date of completion of the repair.

5. ~~Repaired~~ All other repairs to tanks and piping must be tightness tested in accordance with subsection 3 of 9VAC25-580-160 and subdivision 2 of 9VAC25-580-170 within 30 days following the date of the completion of the repair except as provided ~~in subdivisions 4 a through c of this section~~below:

a. The repaired tank is internally inspected in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory;

b. The repaired portion of the UST system is monitored monthly for releases in accordance with a method specified in subsections 4 through ~~8~~9 of 9VAC25-580-160; or

c. Another test method is used that is determined by the board to be no less protective of human health and the environment than those listed ~~above.~~ In subdivisions 5 a and 5 b of this section.

NOTE: The following codes of practice may be used to comply with subdivisions 4 and 5 of this section:

a. Steel Tank Institute Recommended Practice R012, "Recommended Practice for Interstitial Tightness Testing of Existing Underground Double Wall Steel Tanks"; or

b. Fiberglass Tank and Pipe Institute Protocol, "Field Test Protocol for Testing the Annular Space of Installed Underground Fiberglass Double and Triple-Wall Tanks With Dry Annular Space".

c. Petroleum Equipment Institute Recommended Practice RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities".

~~5.~~6. Within six months following the repair of any cathodically protected UST system, the cathodic protection system must be tested in accordance with subdivisions 2 and 3 of 9VAC25-580-90 to ensure that it is operating properly.

7. Within 30 days following any repair to spill or overflow prevention equipment, the repaired spill or overflow prevention equipment must be tested or inspected as appropriate, in accordance with 9VAC25-580-82 to ensure it is operating properly.

~~6.~~8. UST system owners and operators must maintain records (in accordance with 9VAC25-580-120) of each repair ~~for the remaining operating life of~~ until the UST system ~~that demonstrate compliance with the requirements of this section~~ is permanently closed or undergoes a change-in-service pursuant to 9VAC25-580-320.

9VAC25-580-120. Reporting and recordkeeping.

Owners and operators of UST systems must cooperate fully with inspections, monitoring and testing conducted by the board, as well as requests for document submission, testing, and monitoring by the owner or operator pursuant to § 9005 of Subtitle I of the ~~Resource Conservation and Recovery~~ Solid Waste Disposal Act, as amended.

1. Reporting. Owners and operators must submit the following information to the board:

a. Notification for all UST systems (9VAC25-580-70), which includes certification of installation for new UST systems (subdivision 5 of 9VAC25-580-50)~~,~~ and notification when any person assumes ownership of an UST system (9VAC25-580-70);

b. Notification prior to UST systems switching to certain regulated substances (subdivision 2 of 9VAC25-580-100);

c. Reports of all releases including suspected releases (9VAC25-580-190), spills and overfills (9VAC25-580-220), and confirmed releases (9VAC25-580-240);

~~c.~~d. Corrective actions planned or taken including initial abatement measures (9VAC25-580-250), site characterization (9VAC25-580-260), free product removal (9VAC25-580-270), and corrective action plan (9VAC25-580-280); and

~~d.~~e. An amended notification form must be submitted within 30 days after permanent closure or change-in-service (9VAC25-580-320).

2. Recordkeeping. Owners and operators must maintain the following information:

a. Documentation of operation of corrosion protection equipment ~~(9VAC25-580-90);~~(subdivision 4 of 9VAC25-580-90);

b. Documentation of compatibility for UST systems (subdivision 3 of 9VAC25-580-100);

c. Documentation of UST system repairs (subdivision ~~6~~8 of 9VAC25-580-110);

~~c.~~d. Documentation of compliance and applicable installation records for spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping (subsection C of 9VAC25-580-82);

e. Documentation of periodic walkthrough inspections (subsection B of 9VAC25-580-85);

f. ~~Recent~~ Documentation of compliance with release detection requirements (9VAC25-580-180); ~~and~~

~~d.~~g. Results of the site investigation conducted at permanent closure (9VAC25-580-350)~~.~~; and

~~e.~~h. Documentation of operator training required by 9VAC25-580-125, including verification of training for current Class A, Class B, and Class C operators, and current list of operators and written instructions or procedures for Class C operators ~~in accordance with~~ (9VAC25-580-125) ~~(relating to operator training)~~.

3. Availability and maintenance of records. Owners and operators must keep the records required either:

a. At the UST site and immediately available for inspection by the board; or

b. At a readily available alternative site and be provided for inspection to the board upon request.

In the case of permanent closure records required under 9VAC25-580-350, owners and operators are also provided with the additional alternative of mailing closure records to the board if they cannot be kept at the site or an alternative site as indicated above.

9VAC25-580-125. Operator training.

A. Definitions.

1. For purposes of this section, "Class A operator" means an operator who has primary responsibility to operate and maintain the underground storage tank system and facility. The Class A operator's responsibilities include managing resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements. In general, Class A operators focus on the broader aspects of the underground storage tank statutory and regulatory requirements and standards necessary to properly operate and maintain the underground storage tank system and facility.

2. For purposes of this section, "Class B operator" means an operator who implements applicable underground storage tank regulatory requirements and standards in the field or at the underground storage tank facility. A Class B operator oversees and implements the day-to-day aspects of operations, maintenance, and recordkeeping for the underground storage tanks at one or more facilities.

3. For purposes of this section, "Class C operator" means the person responsible for responding to alarms or other indications of emergencies caused by spills or releases from underground storage tank systems and equipment failures. A Class C operator, generally, is the first line of response to events indicating emergency conditions.

B. Requirements for trained operators.

1. Owners and operators of UST systems shall designate Class A, Class B, and Class C operators for each UST system or facility that has underground storage tanks.

a. A person may be designated for more than one class of operator.

b. Any person designated for more than one class of operator shall successfully complete the required training under subsection C of this section for each operator class for which he is designated.

c. Persons trained in accordance with subsection C of this section may perform operator duties consistent with their training when employed or contracted by the tank owner or operator to perform these functions.

2. ~~Designated operators shall successfully complete required training under subsection C of this section no later than August 8, 2012.~~

~~3.~~ Class A operators shall be familiar with training requirements for each class of operator and may provide required training for Class C operators.

~~4.~~3. Class B operators shall be familiar with Class B and Class C operator responsibilities and may provide training for Class C operators.

~~5.~~4. Trained operators shall be readily available to respond to suspected/confirmed releases, other unusual operating conditions and equipment shut-offs or failures.

a. The Class A or Class B operator shall be available for immediate telephone consultation when an UST facility is in operation. A Class A or Class B operator shall be able to be onsite at the facility within a reasonable time to perform necessary functions.

b. For manned facilities, a Class C operator shall be onsite whenever the UST facility is in operation. After September 15, 2010, written instructions or procedures shall be maintained and visible at manned UST facilities for persons performing duties of the Class C operator to follow and to provide notification necessary in the event of emergency conditions.

c. For unmanned facilities, a Class C operator shall be available for immediate telephone consultation and shall be able to be onsite within a reasonable time to perform necessary functions. Emergency contact information shall be prominently displayed at the site. After September 15, 2010, written instructions or procedures shall be maintained and visible at unmanned UST facilities for persons performing duties of the Class C operator to follow and to provide notification necessary in the event of emergency conditions.

C. Required training.

1. Class A operators shall successfully complete a training course approved by the board that includes a general knowledge of UST system requirements. Training shall provide information that should enable the operator to make informed decisions regarding compliance and ensuring that appropriate persons are fulfilling operation, maintenance, and recordkeeping requirements and standards of this chapter and/or federal underground storage tank requirements in 40 CFR Part 280 (relating to technical standards and corrective action requirements for owners and operators of underground storage tanks (UST)), including, at a minimum, the following:

a. Spill and overfill prevention;

b. Release detection and related reporting requirements;

c. Corrosion protection;

d. Emergency response;

e. Product and equipment compatibility;

f. Financial responsibility;

g. Notification and storage tank registration requirements;

h. Temporary and permanent closure requirements; and

i. Class B and Class C operator training requirements.

2. Class B operators shall successfully complete a training course approved by the board that includes an in-depth understanding of operation and maintenance aspects of UST systems and related regulatory requirements. Training shall provide specific information on the components of UST systems, materials of construction, methods of release detection and release prevention applied to UST systems and components. Training shall address operation and maintenance requirements of this chapter and/or federal underground storage tank requirements in 40 CFR Part 280, including, at a minimum, the following:

a. Spill and overfill prevention;

b. Release detection and related reporting requirements;

c. Corrosion protection and related testing;

d. Emergency response;

e. Product and equipment compatibility;

f. Reporting and recordkeeping requirements; and

g. Class C operator training requirements.

3. Class C operators. At a minimum, training provided by the tank owner or Class A or Class B operator shall enable the Class C operator to take action in response to emergencies caused by spills or releases and alarms from an underground storage tank. Training shall include written instructions or procedures for the Class C operator to follow and to provide notification necessary in the event of emergency conditions.

4. Successful completion for Class A and Class B operators means completion of the entire training course and demonstration of knowledge of the course material as follows:

a. Receipt of a passing grade (a score of 80% or better) on an examination of material presented in the training course, or demonstration through practical (hands-on) application to the trainer of operation and maintenance checks of underground storage tank equipment, including performance of release detection at the UST facility, at the conclusion of onsite training; and

b. Receipt of a training certificate by an approved trainer upon verification of successful completion of training under this section.

5. Reciprocity. The board may also recognize successful completion of Class A and Class B operator training on regulatory standards consistent with 40 CFR Part 280, which is recognized by other state or implementing agencies and which is approved by EPA as meeting operator training grant guidelines published by EPA.

6. The tank owner and operator shall incur the costs of the training.

D. Timing of training.

1. An owner and operator shall ensure that Class A, Class B and Class C operators are trained as soon as practicable after September 15, 2010, contingent upon availability of approved training providers, but not later than August 8, 2012.

2. When a Class A or Class B operator is replaced after August 8, 2012, a new operator shall be trained within 60 days of assuming duties for that class of operator.

3. Class C operators shall be trained before assuming duties of a Class C operator. After September 15, 2010, written instructions or procedures shall be provided to Class C operators to follow and to provide notification necessary in the event of emergency conditions. Class C operators shall be briefed on these instructions or procedures at least annually (every 12 months), which may be concurrent with annual safety training required under Occupational Safety and Health Administration, 29 CFR Part 1910 (relating to Occupational Safety and Health Standards).

E. Retraining.

1. Owners and operators of UST systems shall ensure that Class A and B operators in accordance with subsection C of this section are retrained if the board determines that the UST system is out of compliance with the requirements of 9VAC25-580-30 through 9VAC25-580-190. At a minimum, Class A and Class B operators shall successfully complete retraining in the areas identified as out of compliance.

2. Class A and B operators shall complete training pursuant to this subsection no later than 90 days from the date the board identifies the noncompliance.

F. Documentation.

1. Owners and operators of underground storage tank facilities shall prepare and maintain a list of designated Class A, Class B, and Class C operators. The list shall represent the current Class A, Class B, and Class C operators for the UST facility and shall include:

a. The name of each operator, class of operation trained for, and the date each operator successfully completed initial training and refresher training, if any.

b. For Class A and Class B operators that are not permanently onsite or assigned to more than one facility, telephone numbers to contact the operators.

2. A copy of the certificates of training for Class A and Class B operators shall be on file as long as each operator serves in that capacity at the facility or three years, whichever is longer, and readily available, and a copy of the facility list of Class A, Class B, and Class C operators and Class C operator instructions or procedures shall be kept onsite and immediately available for manned UST facilities and readily available for unmanned facilities (see subdivision 2 ~~e~~h of 9VAC25-580-120 relating to reporting and recordkeeping).

3. Class C operator and owner contact information, including names and telephone numbers, and any emergency information shall be conspicuously posted at unmanned facilities.

Part IV
Release Detection

9VAC25-580-130. General requirements for all petroleum and hazardous substance UST systems.

A. Owners and operators of ~~new and existing~~ UST systems must provide a method, or combination of methods, of release detection that:

1. Can detect a release from any portion of the tank and the connected underground piping that routinely contains product;

2. Is installed~~,~~ and calibrated~~, operated, and maintained~~ in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; ~~and~~

3. Beginning on [insert date three years after effective date of amendment], is operated and maintained, and electronic and mechanical components are tested for proper operation, in accordance with one of the following: (i) manufacturer's instructions; (ii) a code of practice developed by a nationally recognized association or independent testing laboratory; or (iii) requirements determined by the board to be no less protective of human health and the environment than the two options listed in subdivisions A 1 and A 2 of this section. A test of the proper operation must be performed at least annually and, at a minimum, as applicable to the facility, cover the following components and criteria:

(a) Automatic tank gauge and other controllers: test alarm; verify system configuration; test battery backup;

(b) Probes and sensors: inspect for residual buildup; ensure floats move freely; ensure shaft is not damaged; ensure cables are free of kinks and breaks; test alarm operability and communication with controller;

(c) Automatic line leak detector: test operation to meet criteria in 9VAC25-580-170 1 by simulating a leak;

(d) Vacuum pumps and pressure gauges: ensure proper communication with sensors and controller; and

(e) Hand-held electronic sampling equipment associated with groundwater and vapor monitoring: ensure proper operation.

NOTE: The following code of practice may be used to comply with subdivision A 3 of this section. Petroleum Equipment Institute Publication RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities".

~~3.~~4. Meets the performance requirements in 9VAC25-580-160 or 9VAC25-580-170~~,~~ or Part X as applicable with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, the methods ~~used after December 22, 1990,~~ listed in subdivisions 2, 3, 4, 8 and 9 of 9VAC25-580-

160, subdivisions 1 and 2 of 9VAC25-580-170 and Part X, ~~except for methods permanently installed prior to that date,~~ must be capable of detecting the leak rate or quantity specified for that method in ~~subdivisions 2, 3, and 4 of 9VAC25-580-160 or subdivisions 1 and 2 of 9VAC25-580-170~~the corresponding section of the regulation with a probability of detection of 0.95 and a probability of false alarm of 0.05.

B. When a release detection method operated in accordance with the performance standards in 9VAC25-580-160, ~~or~~ 9VAC25-580-170 or Part X indicates a release may have occurred, owners and operators must notify the board in accordance with Part V (9VAC25-580-190 et seq.) of this chapter.

C. ~~Owners and operators of all UST systems must comply with the release detection requirements of this part by December 22 of the year listed in the following table:~~

~~SCHEDULE FOR PHASE-IN OF RELEASE DETECTION~~

~~Year system was installed~~	~~Year when release detection is required (by December 22 of the year indicated)~~				
	~~1989~~	~~1990~~	~~1991~~	~~1992~~	~~1993~~
~~Before 1965 or date unknown~~	~~RD~~	~~P~~	-	-	-
~~1965-1969~~	-	~~P/RD~~	-	-	-
~~1970-1974~~	-	~~P~~	~~RD~~	-	-
~~1975-1979~~	-	~~P~~	-	~~RD~~	-
~~1980-1988~~	-	~~P~~	-	-	~~RD~~

~~New tanks (after December 22, 1988) immediately upon installation.~~

~~P = Must begin release detection for all pressurized piping in accordance with subdivision C 2 a of 9VAC25-580-140.~~

~~RD = Must begin release detection for tanks and suction piping in accordance with subdivisions C 1 and C 2 b of 9VAC25-580-140, and 9VAC25-580-150.~~

~~D.~~ Any ~~existing~~ UST system that cannot apply a method of release detection that complies with the requirements of this part must complete the closure procedures in Part VII (9VAC25-580-310 et seq.) of this chapter. ~~by the date on which release detection is required for that UST system under subsection C of this section.~~ For previously deferred UST systems described in Part I and Part X, this requirement applies on or after the effective dates described in 9VAC25-580-20 A 1 b and c and 9VAC25-580-380 A 1.

9VAC25-580-140. Requirements for petroleum UST systems.

~~A. Owners and operators of petroleum UST systems required to have secondary containment under subdivision 7 of 9VAC25-580-50 must provide secondary containment and release detection for tanks and piping as follows:~~

~~1. Secondary containment systems must be designed, constructed, and installed to:~~

~~a. Contain regulated substances released from the tank system until they are detected and removed;~~

~~b. Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and~~

~~c. Be checked for evidence of a release at least every 30 days.~~

~~2. Double-walled tanks must be designed, constructed, and installed to:~~

~~a. Contain a release from any portion of the inner tank within the outer wall; and~~

~~b. Detect the failure of the inner wall.~~

~~3. External liners (including vaults) must be designed, constructed, and installed to:~~

~~a. Contain 100% of the capacity of the largest tank within its boundary;~~

~~b. Prevent the interference of precipitation or groundwater intrusion with the ability to contain or detect a release of regulated substances; and~~

~~c. Surround the tank completely (i.e., it is capable of preventing lateral as well as vertical migration of regulated substances).~~

~~4. Underground piping must be equipped with secondary containment that satisfies the requirements of subdivision 1 of this subsection (e.g., trench liners, jacketing of double-walled pipe). In addition, underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector in accordance with subdivision 1 of 9VAC25-580-170.~~

~~5. Perform interstitial monitoring in accordance with subdivision 7 of 9VAC 25-580-160.~~

~~B. Owners and operators of petroleum USTs required to have secondary containment under subdivision 7 of 9VAC25-580-50 must have motor fuel underdispenser containment that is liquid-tight on its sides, bottom, and at any penetrations; be compatible with the substance conveyed by the piping; and allow for visual inspection and access to the components in the containment system or be monitored.~~

~~C.~~ Owners and operators of petroleum UST systems ~~not required to have secondary containment under subdivision 7 of 9VAC25-580-50~~ must provide release detection for tanks and piping as follows:

1. Tanks. Tanks must be monitored for releases as follows:

a. Tanks installed before September 15, 2010 must be monitored for releases at least every 30 days for releases using one of the methods listed in subdivisions 4 through ~~8~~9 of 9VAC25-580-160 except that:

~~a.~~(1.) UST systems that meet the performance standards in subdivisions 1 through 5 of 9VAC25-580-50 or subdivisions 1 through 4 of 9VAC25-580-60 may use both monthly inventory control requirements in subdivision 1 or 2 of 9VAC25-580-160, and tank tightness testing (conducted in accordance with subdivision 3 of 9VAC25-580-160) at least every five years until ~~December 22, 1998, or until~~ 10 years after the tank ~~is~~was installed ~~or upgraded under subdivision 2 of 9VAC25-580-60, whichever is later~~; and

~~b. UST systems that do not meet the performance standards in 9VAC25-580-50 or 9VAC25-580-60 may use monthly inventory controls (conducted in accordance with subdivision 1 or 2 of 9VAC25-580-160) and annual tank tightness testing (conducted in accordance with subdivision 3 of 9VAC25-580-160) until December 22, 1998, when the tank must be upgraded under 9VAC25-580-60 or permanently closed under 9VAC25-580-320; and~~

~~c.~~(2.) Tanks with capacity of 550 gallons or less ~~may use weekly~~ and tanks with a capacity of 551 to 1000 gallons that meet the tank diameter criteria in 9VAC25-580-160 2 may use manual tank gauging (conducted in accordance with subdivision 2 of 9VAC25-580-160).

b. Tanks installed on or after September 15, 2010 must be monitored for releases at least every 30 days in accordance with 9VAC25-580-160 7.

2. Piping. Underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets one of the following requirements:

a. Piping installed before September 15, 2010 must meet one of the following:

(1) Pressurized piping. Underground piping that conveys regulated substances under pressure must:

~~(1)~~(a) Be equipped with an automatic line leak detector conducted in accordance with subdivision 1 of 9VAC25-580-170; and

~~(2)~~(b) Have an annual line tightness test conducted in accordance with subdivision 2 of 9VAC25-580-170 or have monthly monitoring conducted in accordance with subdivision 3 of 9VAC25-580-170.

~~b.~~(2) Suction piping. Underground piping that conveys regulated substances under suction must either have a line tightness test conducted at least every three years and in accordance with subdivision 2 of 9VAC25-580-170, or use a monthly monitoring method conducted in accordance with subdivision 3 of 9VAC25-580-170. No release detection is required for suction piping that is designed and constructed to meet the following standards:

~~(1)~~(a) The below-grade piping operates at less than atmospheric pressure;

~~(2)~~(b) The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

~~(3)~~(c) Only one check valve is included in each suction line;

~~(4)~~(d) The check valve is located directly below and as close as practical to the suction pump; and

~~(5)~~(e) A method is provided that allows compliance with subdivisions 2 ~~b~~a (2) (b) through ~~(4)~~(d) of this subsection to be readily determined.

b. Piping installed or replaced on or after September 15, 2010 must meet one of the following:

(1) Pressurized piping must be monitored for releases at least every 30 days in accordance with 9VAC25-580-160 7 and be equipped with an automatic line leak detector in accordance with 9VAC25-580-170 1.

(2) Suction piping must be monitored for releases at least every 30 days in accordance with 9VAC25-580-160 7. No release detection is required for suction piping that meets the requirements of subdivision 2 a (2) (a) through (e) of this subsection.

9VAC25-580-150. Requirements for hazardous substance UST systems.

Owners and operators of hazardous substance UST systems must provide ~~release detection~~containment that meets the following requirements and monitor these systems using 9VAC25-580-160 7 at least every 30 days:

~~1. Release detection at existing UST systems must meet the requirements for petroleum UST systems in 9VAC25-580-140. By December 22, 1998, all existing hazardous substance UST systems must meet the release detection requirements for new systems in subdivision 2 of this section.~~

~~2. Release detection at new hazardous substance UST systems must meet the following requirements:~~

~~a.~~ Secondary containment systems must be designed, constructed and installed to:

~~(1)~~a. Contain regulated substances ~~released~~ leaked from the ~~tank system~~ primary containment until they are detected and removed;

~~(2)~~b. Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and

~~(3)~~c. Be checked for evidence of a release at least every 30 days.

NOTE: The provisions of 40 CFR 265.193, Containment and Detection of Releases, may be used to comply with these requirements~~.~~ for tanks installed before September 15, 2010.

~~b.~~2. Double-walled tanks must be designed, constructed, and installed to:

~~(1)~~a. Contain a ~~release~~ leak from any portion of the inner tank within the outer wall; and

~~(2)~~b. Detect the failure of the inner wall.

~~c.~~3. External liners (including vaults) must be designed, constructed, and installed to:

~~(1)~~a. Contain 100% of the capacity of the largest tank within its boundary;

~~(2)~~b. Prevent the interference of precipitation or ~~ground-water~~groundwater intrusion with the ability to contain or detect a release of regulated substances; and

~~(3)~~c. Surround the tank completely (i.e., it is capable of preventing lateral as well as vertical migration of regulated substances).

~~d.~~4. Underground piping must be equipped with secondary containment that satisfies the requirements of ~~subdivision 2 a of~~ this section (e.g., trench liners, ~~jacketing of~~ double-walled pipe). In addition, underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector in accordance with subdivision 1 of 9VAC25-580-170.

~~e.~~5. For hazardous substance UST systems installed before September 15, 2010 ~~Other~~ other methods of release detection may be used if owners and operators:

~~(1)~~a. Demonstrate to the board that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in subsections 2 through ~~8~~9 of 9VAC25-580-160 can detect a release of petroleum;

~~(2)~~b. Provide information to the board on effective corrective action technologies, health risks, and chemical and physical properties of the stored substance, and the characteristics of the UST site; and

~~(3)~~c. Obtain approval from the board to use the alternate release detection method before the installation and operation of the new UST system.

9VAC25-580-160. Methods of release detection for tanks.

Owners and operators must obtain a permit and the required inspections in accordance with 9VAC25-580-50 or 9VAC25-580-60 for the ~~methods of~~ installation of certain release detection equipment contained in subsections 4 through ~~8~~9 of 9VAC25-580-160.

Each method of release detection for tanks used to meet the requirements of 9VAC25-580-140 must be conducted in accordance with the following and be designed to detect releases at the earliest possible time for the specific method chosen:

1. Inventory control. Product inventory control (or another test of equivalent performance) must be conducted monthly to detect a release of at least 1.0% of flow-through plus 130 gallons on a monthly basis in the following manner:

a. Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank are recorded each operating day;

b. The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest ~~one-eighth~~1/8 of an inch;

c. The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;

d. Deliveries are made through a drop tube that extends to within one foot of the tank bottom;

e. Product dispensing is metered and recorded according to regulations of the Bureau of Weights and Measures of the Virginia Department of Agriculture and Consumer Services for meter calibration within their jurisdiction; for all other product dispensing meter calibration, an accuracy of six cubic inches for every five gallons of product withdrawn is required; and

f. The measurement of any water level in the bottom of the tank is made to the nearest ~~one-eighth~~1/8 of an inch at least once a month.

NOTE: Practices described in the American Petroleum Institute ~~Publication 1621, "~~Recommended Practice ~~for~~ RP 1621 "Bulk Liquid Stock Control at Retail Outlets," may be used, where applicable, as guidance in meeting the requirements of this subsection.

2. Manual tank gauging. Manual tank gauging must meet the following requirements:

a. Tank liquid level measurements are taken at the beginning and ending of a period ~~of at least 36 hours~~ using the appropriate minimum duration of test value in the table below during which no liquid is added to or removed from the tank;

b. Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;

c. The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest ~~⅛~~1/8 of an inch;

d. A ~~leak~~ release is suspected and subject to the requirements of Part V if the variation between beginning and ending measurements exceeds the weekly or monthly standards in the following table:

~~Nominal tank capacity~~	~~Weekly standard (one test)~~	~~Monthly standard (average of four tests)~~
~~550 gallons or less~~	~~10 gallons~~	~~5 gallons~~
~~551-1,000 gallons~~	~~13 gallons~~	~~7 gallons~~
~~1,001-2,000 gallons~~	~~26 gallons~~	~~13 gallons~~

Nominal Tank Capacity	Minimum Duration of Test	Weekly Standard (one test)	Monthly Standard (Four Test Average)
550 gallons or less	36 hours	10 gallons	5 gallons
551 - 1,000 gallons (when tank diameter is 64 inches)	44 hours	9 gallons	4 gallons
551 - 1,000 gallons (when tank diameter is 48 inches)	58 hours	12 gallons	6 gallons
551 -1,000 gallons (also requires periodic tank tightness testing)	36 hours	13 gallons	7 gallons
1001 - 2,000 gallons (also requires periodic tank tightness testing)	36 hours	26 gallons	13 gallons

e. ~~Only tanks~~ Tanks of 550 gallons or less nominal capacity and tanks with a nominal capacity of 551 to 1,000 gallons that meet the tank diameter criteria in the table in subsection 2 d of this section may use this as the sole method of release detection. ~~Tanks~~ All other tanks with a nominal capacity of 551 to 2,000 gallons may use the method in place of ~~manual~~ inventory control in subsection 1 of 9VAC25-580-160. Tanks of greater than 2,000 gallons nominal capacity may not use this method to meet the requirements of this part.

3. Tank tightness testing. Tank tightness testing (or another test of equivalent performance) must be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.

4. Automatic tank gauging. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:

a. The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product; ~~and~~

b. The automatic tank gauging equipment must meet the ~~Inventory~~ inventory control (or ~~another~~ other test of equivalent performance) ~~is conducted in accordance with the~~ requirements of subsection 1 of 9VAC25-580-160~~.~~; and

c. The test must be performed with the system operating in one of the following modes:

(1) In-tank static testing conducted at least once every 30 days; or

(2) Continuous in-tank leak detection operating on an uninterrupted basis or operating within a process that allows the system to gather incremental measurements to determine the leak status of the tank at least once every 30 days.

5. Vapor monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:

a. The materials used as backfill are sufficiently porous (e.g., gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation area;

b. The stored regulated substance, or a tracer compound placed in the tank system, is sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;

c. The measurement of vapors by the monitoring device is not rendered inoperative by the ~~ground water,~~groundwater rainfall, or soil moisture or other known interferences so that a release could go undetected for more than 30 days;

d. The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;

e. The vapor monitors are designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system;

f. In the UST excavation zone, the site is assessed to ensure compliance with the requirements in subdivisions 5 a through d of this section and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product; and

g. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

6. ~~Ground water~~ Groundwater monitoring. Testing or monitoring for liquids on the ~~ground water~~ groundwater must meet the following requirements:

a. The regulated substance stored is not readily miscible in water and has a specific gravity of less than one;

b. ~~Ground water~~Groundwater is never more than 20 feet from the ground surface and the hydraulic conductivity of the soils between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials);

c. The slotted portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low ~~ground water~~ groundwater conditions;

d. Monitoring wells shall be sealed from the ground surface to the top of the filter pack;

e. Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;

f. The continuous monitoring devices or manual methods used can detect the presence of at least ~~⅛~~1/8 of an inch of free product on top of the ~~ground water~~ groundwater in the monitoring wells;

g. Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in subdivisions 6 a through e of this section and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product; and

h. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

7. Interstitial monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:

a. For double-walled UST systems, the sampling or testing method can detect a ~~release~~ leak through the inner wall in any portion of the tank that routinely contains product;

~~NOTE: The provisions outlined in the Steel Tank Institute's "Standard for Dual Wall Underground Storage Tanks" may be used as guidance for aspects of the design and construction of underground steel double-walled tanks.~~

b. For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a ~~release~~ leak between the UST system and the secondary barrier;

(1) The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (at least 10^{-6} cm/sec for the regulated substance stored) to direct a ~~release~~ leak to the monitoring point and permit its detection;

(2) The barrier is compatible with the regulated substance stored so that a ~~release~~ leak from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;

(3) For cathodically protected tanks, the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system;

(4) The ~~ground water~~groundwater, soil moisture, or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days;

(5) The site is assessed to ensure that the secondary barrier is always above the ~~ground water~~groundwater and not in a 25-year flood plain, unless the barrier and monitoring designs are for use under such conditions; and,

(6) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

c. For tanks with an internally fitted liner, an automated device can detect a ~~release~~leak between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.

8. Statistical inventory reconciliation. Release detection methods based on the application of statistical principles to inventory data similar to those described in 9VAC25-580-160 1 must meet the following requirements:

a. Report a quantitative result with a calculated leak rate;

b. Be capable of detecting a leak rate of 0.2 gallon per hour or a release of 150 gallons within 30 days; and

c. Use a threshold that does not exceed one-half the minimum detectible leak rate.

~~8.~~9. Other methods. Any other type of release detection method, or combination of methods, can be used if:

a. It can detect a 0.2 gallon per hour leak rate or a release of 150 gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05; or

b. The board may approve another method if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in subsections 3 through 8 of this section. In comparing methods, the board shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator must comply with any conditions imposed by the board on its use to ensure the protection of human health and the environment.

9VAC25-580-170. Methods of release detection for piping.

Owners and operators must obtain a permit and the required inspections in accordance with 9VAC25-580-50 or 9VAC25-580-60 for the ~~methods~~ installation of certain release detection equipment contained in subdivisions 1 through 3 of 9VAC25-580-170.

Each method of release detection for piping used to meet the requirements of 9VAC25-580-140 must be conducted in accordance with the following:

1. Automatic line leak detectors. Methods which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of three gallons per hour at 10 pounds per square inch line pressure within one hour. An annual test of the operation of the leak detector must be conducted in accordance with ~~the manufacturer's requirements.~~9VAC25-580-130 A 3 c.

2. Line tightness testing. A periodic test of piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure.

3. Applicable tank methods. ~~Any~~ Except as described in 9VAC25-580-140 1, any of the methods in subsections 5 through ~~8~~ 9 of 9VAC25-580-160 may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

9VAC25-580-180. Release detection recordkeeping.

All UST system owners and operators must maintain records in accordance with 9VAC25-580-120 demonstrating compliance with all applicable requirements of this part. These records must include the following:

1. All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, must be maintained for five years from the date of installation or as long as the method of release detection is used, whichever is greater. Not later than [insert date three years after effective date of amendment], records of site assessments required under 9VAC25-580-160 5 f and 6 g must be maintained for as long as the methods are used. Records of site assessments developed after [insert effective date of amendment] must be signed by a professional engineer or professional geologist, or equivalent licensed professional with experience in environmental engineering, hydrogeology, or other relevant technical discipline acceptable to the board;

2. The results of any sampling, testing, or monitoring must be maintained for at least one year, or for another reasonable period of time determined by the board, except as follows:

a. The results of annual operation tests conducted in accordance with 9VAC25-580-130 A 3 must be maintained for three years. At a minimum, the results must list each component tested, indicate whether each component tested meets criteria in 9VAC25-

580-130 A 3 or needs to have action taken, and describe any action taken to correct an issue; and

b. ~~that the~~The results of tank tightness testing conducted in accordance with subsection 3 of 9VAC25-580-160 must be retained until the next test is conducted; and

c. The results of tank tightness testing, line tightness testing, and vapor monitoring using a tracer compound placed in the tank system conducted in accordance with 9VAC25-580-390 D must be retained until the next test is conducted; and

3. Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site must be maintained for at least one year after the servicing work is completed or for such longer period as may be required by the board. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must be retained for five years from the date of installation.

Part V

Release Reporting, Investigation, and Confirmation

9VAC25-580-190. Reporting of suspected releases.

Owners and operators of UST systems must report to the board within 24 hours and follow the procedures in 9VAC25-580-210 for any of the following conditions:

1. The discovery by owners and operators or others of released regulated substances at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface water);

2. Unusual operating conditions observed by owners and operators (such as the erratic behavior of product dispensing equipment, the sudden loss of product from the UST system, ~~or~~ an unexplained presence of water in the ~~tank)~~ tank, or liquid in the interstitial space of secondarily contained systems), unless ~~system equipment is found to be defective but not leaking, and is immediately repaired or replaced;~~;

a. The system equipment or component is found not to be releasing regulated substances to the environment;

b. Any defective system equipment or component is immediately repaired or replaced; and

c. For secondarily contained systems, except as provided for in 9VAC25-580-160 7 b 4, any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine filled) is immediately removed.

3. Monitoring results, including investigation of an alarm, from a release detection method required under 9VAC25-580-140 and 9VAC25-580-150 that indicate a release may have occurred unless:

a. The monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result; ~~or~~

b. The leak is contained in the secondary containment and:

(1) Except as provided for in 9VAC25-580-160 7 b 4, any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine filled) is immediately removed, and

(2) Any defective system equipment or component is immediately repaired or replaced;

c. In the case of inventory control, described in 9VAC25-580-160 1, a second month of data or in the case of manual tank gauging, a second week or month as prescribed in the chart under subdivision 2 d of 9VAC25-580-160 does not confirm the initial result~~.~~ or the investigation determines no release has occurred; or

d. The alarm was investigated and determined to be a non-release event (for example, from a power surge or caused by filling the tank during release detection testing).

9VAC25-580-200. Investigation due to off-site impacts.

When required by the board, owners and operators of UST systems must follow the procedures in 9VAC25-580-210 to determine if the UST system is the source of off-site impacts. These impacts include the discovery of regulated substances (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and state waters) that has been observed by the board or brought to its attention by another party.

9VAC25-580-210. Release investigation and confirmation steps.

Unless corrective action is initiated in accordance with Part VI, owners and operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under 9VAC25-580-190 within seven days, or another reasonable time period specified by the board upon written request made and approved within seven days after reporting of the suspected release.

The following steps are required for release investigation and confirmation:

1. System test. Owners and operators must conduct tests (according to the requirements for tightness testing in subsection 3 of 9VAC25-580-160 and subdivision 2 of 9VAC25-580-170) ~~that determine whether a leak exists in that portion of the tank that routinely contains product, or the attached delivery piping, or both.~~ or, as appropriate, secondary containment testing described in 9VAC25-580-110 4.

a. The test must determine whether:

(1) A leak exists in that portion of the tank that routinely contains product, or the attached delivery piping, or

(2) A breach of either wall of the secondary containment has occurred.

b. If the system test confirms a leak into the interstice or a release, ~~Owners~~ owners and operators must repair, replace, ~~or~~ upgrade, or close the UST system~~,~~. In addition, owners and operators must begin corrective action in accordance with Part VI if the test results for the system, tank, or delivery piping indicate that a ~~leak~~ release exists.

~~b.~~c. Further investigation is not required if the test results for the system, tank, and delivery piping do not indicate that a ~~leak~~ release exists and if environmental contamination is not the basis for suspecting a release.

~~c.~~d. Owners and operators must conduct a site check as described in subdivision 2 of this section if the test results for the system, tank, and delivery piping do not indicate that a ~~leak~~release exists but environmental contamination is the basis for suspecting a release.

2. Site check. Owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth of ~~ground water~~groundwater, and other factors appropriate for identifying the presence and source of the release. Samples shall be tested according to established EPA analytical methods or methods approved by the board.

a. If the test results for the excavation zone or the UST site indicate that a release has occurred, owners and operators must begin corrective action in accordance with Part VI of this chapter.

b. If the test results for the excavation zone or the UST site do not indicate that a release has occurred, further investigation is not required.

9VAC25-580-220. Reporting and cleanup of spills and overfills.

A. Owners and operators of UST systems must contain and immediately clean up a spill or overfill and report to the board within 24 hours and begin corrective action in accordance with Part VI of this chapter in the following cases:

1. Spill or overfill of petroleum that results in a release to the environment that exceeds 25 gallons or that causes a sheen on nearby surface water; and

2. Spill or overfill of a hazardous substance that results in a release to the environment that equals or exceeds its reportable quantity under CERCLA (40 CFR Part 302).

B. Owners and operators of UST systems must contain and immediately clean up a spill or overfill of petroleum that is less than 25 gallons and a spill or overfill of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within 24 hours owners and operators must immediately notify the board.

NOTE: Pursuant to 40 CFR §§ 302.6 and 355.40, a release of a hazardous substance equal to or in excess of its reportable quantity must also be reported immediately (rather than within 24 hours) to the National Response Center under §§ 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (42 USC §§ 9602 and 9603) and to appropriate state and local authorities under Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986.

Part VI

Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances

9VAC25-580-230. General.

Owners and operators of petroleum or hazardous substance UST systems must, in response to a confirmed release from the UST system, comply with the requirements of this part except for USTs excluded under subsection B of 9VAC25-580-20 and UST systems subject to RCRA Subtitle C corrective action requirements under § 3004(u) of the Resource Conservation and Recovery Act, as amended.

9VAC25-580-240. Initial response.

Upon confirmation of a release in accordance with 9VAC25-580-210 or after a release from the UST system is identified in any other manner, owners and operators must perform the following initial response actions within 24 hours of a release:

1. Report the release to the board (e.g., by telephone or electronic mail);

2. Take immediate action to prevent any further release of the regulated substance into the environment; and

3. Identify and mitigate fire, explosion, and vapor hazards.

9VAC25-580-250. Initial abatement measures and site check.

A. Unless directed to do otherwise by the board, owners and operators must perform the following abatement measures:

1. Remove as much of the regulated substance from the UST system as is necessary to prevent further release to the environment;

2. Visually inspect any aboveground releases or exposed below ground releases and prevent further migration of the released substance into surrounding soils and ~~ground water~~groundwater;

3. Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements);

4. Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement, or corrective action activities. If these remedies include treatment or disposal of soils, the owner and operator must comply with applicable state and local requirements;

5. Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with the site check required by subdivision 2 of 9VAC25-580-210 or the closure site assessment of subsection A of 9VAC25-580-330. In selecting sample types, sample locations, and measurement methods, the owner and operator must consider the nature of the stored substance, the type of backfill, depth to ~~ground water~~groundwater and other factors as appropriate for identifying the presence and source of the release. Samples shall be tested according to established EPA analytical methods or methods approved the board; and

6. Investigate to determine the possible presence of free product, and begin free product removal as soon as practicable and in accordance with 9VAC25-580-270.

B. Within 20 days after release confirmation, or within another reasonable period of time determined by the board upon written request made and approved within 20 days after release confirmation, owners and operators must submit a report to the board summarizing the initial abatement steps taken under subsection A of this section and any resulting information or data.

9VAC25-580-260. Site characterization.

A. Owners and operators must assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in 9VAC25-580-230 and 9VAC25-580-240. This information must include, but is not necessarily limited to, the following:

1. Data on the material released and the estimated quantity of release;

2. Data from available sources or site investigations concerning the following:

a. Site assessment to include: data on the physical/chemical properties of the contaminant; nature and quantity and extent of the release; evidence that free product is found to need recovery; geologic/hydrologic site characterization; current and projected land/water uses; water quality; subsurface soil conditions; evidence that contaminated soils are in contact with the ~~ground water~~groundwater; locations of subsurface conduits (e.g., sewers, utility lines, etc.); and climatological conditions. Samples collected for this site characterization shall be tested according to established EPA analytical methods or methods approved by the board;

b. Risk (exposure) assessment to include: evidence that wells of the area have been affected; use and approximate locations of wells potentially affected by the release; identification of potential and impacted receptors; migration routes; surrounding populations; potential for additional environmental damage;

c. Remediation assessment to include: potential for remediation and applicability of different remediation technologies to the site.

3. Results of the site check required under subdivision A 5 of 9VAC25-580-250; and

4. Results of the free product investigations required under subdivision A 6 of 9VAC25-580-250, to be used by owners and operators to determine whether free product must be recovered under 9VAC25-580-270.

B. Within 45 days of release confirmation or another reasonable period of time determined by the board upon written request made and approved within 45 days after release confirmation, owners and operators must submit the information collected in compliance with subsection A of this section to the board in a manner that demonstrates its applicability and technical adequacy, or in a format and according to the schedule required by the board.

9VAC25-580-270. Free product removal.

At sites where investigations under subdivision A 6 of 9VAC25-580-250 indicate the presence of free product, owners and operators must remove free product to the maximum extent practicable as determined by the board while continuing, as necessary, any actions initiated under 9VAC25-580-240 through 9VAC25-580-260, or preparing for actions required under 9VAC25-580-280. In meeting the requirements of this section, owners and operators must:

1. Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges or disposes of recovery by-products in compliance with applicable local, state, and federal regulations;

2. Use abatement of free product migration as a minimum objective for the design of the free product removal system;

3. Handle any flammable products in a safe and competent manner to prevent fires or explosions; and

4. Unless directed to do otherwise by the board, prepare and submit to the board, within 45 days after confirming a release, a free product removal report that provides at least the following information:

a. The name of the persons responsible for implementing the free product removal measures;

b. The estimated quantity, type, and thickness of free product observed or measured in wells, bore holes, and excavations;

c. The type of free product recovery system used;

d. Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;

e. The type of treatment applied to, and the effluent quality expected from, any discharge;

f. The steps that have been or are being taken to obtain necessary permits for any discharge; and

g. The disposition of the recovered free product.

9VAC25-580-280. Corrective action plan.

A. At any point after reviewing the information submitted in compliance with 9VAC25-580-240 through 9VAC25-580-260, the board may require owners and operators to submit additional information or to develop and submit a corrective action plan for responding to contaminated soils and ~~ground water~~groundwater. If a plan is required, owners and operators must submit the plan according to a schedule and format established by the board. Alternatively, owners and operators may, after fulfilling the requirements of 9VAC25-580-240 through 9VAC25-580-260, choose to submit a corrective action plan for responding to contaminated soil and ~~ground water~~groundwater. In either case, owners and operators are responsible for submitting a plan that provides for adequate protection of human health and the environment as determined by the board, and must modify their plan as necessary to meet this standard.

B. In conjunction with the information provided under subdivision A 2 of 9VAC25-580-260 (site assessment, risk (exposure) assessment, and remediation assessment), the corrective action plan must include the following information:

1. Detailed conceptual design including narrative description of technologies and how they will be applied at the site;

2. Projected remediation end points/degree of remediation;

3. Schedule of project implementation;

4. Schedule to achieve projected end points;

5. Operational and post-operational monitoring schedules (to include data submittals);

6. Proposed disposition of any wastes and discharges (if applicable);

7. Actions taken to obtain any necessary federal, state and local permits to implement the plan; and

8. Proposed actions to notify persons directly affected by the release or the planned corrective action.

C. The board will approve the corrective action plan only after ensuring that implementation of the plan will adequately protect human health, safety, and the environment. In making this determination, the board will consider the following factors as appropriate:

1. The physical and chemical characteristics of the regulated substance, including its toxicity, persistence, and potential for migration;

2. The hydrogeologic characteristics of the facility and the surrounding area;

3. The proximity, quality, and current and future uses of nearby surface water and ~~ground water~~groundwater;

4. The potential effects of residual contamination on nearby surface water and ~~ground water~~groundwater;

5. The site, risk (exposure), and remediation assessments as required by subdivision A 2 of 9VAC25-580-260; and

6. Any information assembled in compliance with this part.

D. Upon approval of the corrective action plan or as directed by the board, owners and operators must implement the plan, including modifications to the plan made by the board. They must monitor, evaluate, and report the results of implementing the plan in accordance with a schedule and in a format established by the board.

E. Owners and operators may, in the interest of minimizing environmental contamination and promoting more effective cleanup, begin cleanup of soil and ~~ground water~~groundwater before the corrective action plan is approved provided that they:

1. Notify the board of their intention to begin cleanup and obtain written approval to proceed with an agreed upon activity;

2. Comply with any conditions imposed by the board, including halting cleanup or mitigating adverse consequences from cleanup activities; and

3. Incorporate these self-initiated cleanup measures in the corrective action plan that is submitted to the board for approval.

9VAC25-580-290. [Repealed]

9VAC25-580-300. Public participation.

A. For each confirmed release that requires a corrective action plan, the board will require the owner and operator to provide notice to the public by means designed to reach those members of the public directly affected by the release or the planned corrective action. This notice may include, but is not limited to, public notice in local newspapers, block advertisements, public service announcements, publication in a state register, letters to individual households, or personal contacts by field staff.

B. The board must ensure that site release information and decisions concerning the corrective action plan are made available to the public for inspection upon request.

C. Before approving a corrective action plan, the board may hold a public meeting to consider comments on the proposed corrective action plan if there is sufficient public interest, or for any other reason.

D. The board will require the owner and operator to give public notice that complies with subsection A of this section if implementation of an approved corrective action plan does not achieve the established cleanup levels in the plan and termination of that plan is under consideration by the board.

E. These public participation requirements do not supersede any public participation requirements of other regulations.

F. In the event the owner and operator have failed to give the required notice to the public, the board will provide such notice to the extent required by applicable federal law.

G. In those cases where the board implements the corrective plan, the board will provide such notice to the extent required by applicable federal law.

Part VII
Out-of-Service UST Systems and Closure

9VAC25-580-310. Temporary closure.

Owners and operators must obtain a permit and the required inspections in accordance with the provisions of the Virginia Uniform Statewide Building Code (§ 36-97 et seq. of the Code of Virginia).

A permit from the building official must be obtained prior to temporary tank closure. No UST system shall be temporarily closed unless and until the system is inspected in accordance with the provisions of the Virginia Uniform Statewide Building Code (§ 36-97 et seq. of the Code of Virginia).

In the case of state-owned facilities the Department of General Services shall function as the building official in accordance with § 36-98.1 of the Code of Virginia.

In the case of federal facilities the building official must be contacted. Owners and operators must obtain a permit and the required inspections in accordance with the provisions of the Virginia Uniform Statewide Building Code (§ 36-97 et seq. of the Code of Virginia).

1. When an UST system is temporarily closed, owners and operators must continue operation and maintenance of corrosion protection in accordance with 9VAC25-580-90, and any release detection in accordance with ~~Part~~Parts IV~~.~~ and X. Parts V and VI must be complied with if a release is suspected or confirmed. However, release detection and release detection operation and maintenance testing and inspections in Parts III and IV ~~is~~ are not required as long as the UST system is empty. The UST system is empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue, or 0.3% by weight of the total capacity of the UST system, remain in the system. In addition, spill and overfill operation and maintenance testing and inspections in Part III are not required.

2. When an UST system is temporarily closed for three months or more, owners and operators must also comply with the following requirements:

a. Leave vent lines open and functioning; and

b. Cap and secure all other lines, pumps, manways, and ancillary equipment.

3. When an UST system is temporarily closed for more than 12 months, owners and operators must permanently close the UST system if it does not meet either performance standards in 9VAC25-580-50 for new UST systems or the upgrading requirements in 9VAC25-580-60, except that the spill and overfill equipment requirements do not have to be met. Owners and operators must permanently close the substandard UST systems at the end of this 12-month period in accordance with 9VAC25-580-320 through 9VAC25-580-350, unless the building official provides an extension of the 12-month temporary closure period. Owners and operators must complete a site assessment in accordance with 9VAC25-580-330 before such an extension can be applied for.

9VAC25-580-320. Permanent closure and changes-in-service.

Owners and operators must obtain a permit and the required inspections in accordance with the Virginia Uniform Statewide Building Code (§ ~~36-47~~36-97 et seq. of the Code of Virginia).

A permit from the building official must be obtained prior to permanent tank closure or a change-in-service. No UST system shall be permanently closed or changed-in-service unless and until the system is inspected in accordance with the provisions of the Virginia Uniform Statewide Building Code (§ ~~36-47~~ 36-97 et seq. of the Code of Virginia).

If such closure is in response to immediate corrective actions that necessitate timely tank removal, then the building official must be notified and the official's directions followed until a permit is issued.

In the case of state-owned facilities the Department of General Services shall function as the building official in accordance with § 36-98.1 of the Code of Virginia.

In the case of federal facilities the building official must be contacted. Owners and operators must obtain a permit and the required inspections in accordance with the provisions of the Virginia Uniform Statewide Building Code.

1. Owners and operators must within 30 days after either permanent closure or a change-in-service submit an amended UST notification form ~~(Appendix I)~~ to the board.

2. The required assessment of the excavation zone under 9VAC25-580-330 must be performed after notifying the building official but before completion of the permanent closure or a change-in-service.

3. To permanently close a tank, owners and operators must empty and clean it by removing all liquids and accumulated sludges. When the owner or operator suspects that the residual sludges are hazardous in nature the Department of Environmental Quality regulations shall be followed to facilitate the proper treatment, storage, manifesting, transport, and disposal. All tanks taken out of service permanently must ~~also~~ be ~~either~~ removed from the ground, ~~or~~ filled with an inert solid material~~.~~, or closed in place in a manner approved by the board.

4. Continued use of an UST system to store a nonregulated substance is considered a change-in-service. Before a change-in-service, owners and operators must empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with 9VAC25-580-330.

NOTE: The following cleaning and closure procedures may be used to comply with this section:

a. American Petroleum Institute Recommended Practice RP 1604, "~~Removal and Disposal~~Closure of ~~Used~~ Underground Petroleum Storage Tanks";

b. American Petroleum Institute ~~Publication~~ Standard 2015, "Safe Entry and Cleaning of Petroleum Storage Tanks, Planning and Managing Tank Entry From Decommissioning Through Recommissioning";

c. American Petroleum Institute Recommended Practice 2016, "Guidelines and Procedures for Entering and Cleaning Petroleum Storage Tanks";

d. American Petroleum Institute Recommended Practice RP 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks," may be used as guidance for compliance with this section; ~~and~~

e. National Fire Protection Association Standard 326, "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair"; and

~~d.~~f. The National Institute for Occupational Safety and Health Publication 80-106, "Criteria for a Recommended Standard *** Working in Confined Space" may be used as guidance for conducting safe closure procedures at some hazardous substance tanks.

9VAC25-580-330. Assessing the site at closure or change-in-service.

A. Before permanent closure or a change-in-service is completed, owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site. In selecting sample type or types (soil or water) and sample location or locations, and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to ~~ground water,~~ groundwater and other factors appropriate for identifying the presence of a release. Samples shall be tested according to established EPA analytical methods or methods approved by the board. Where the suspected release is a petroleum product, the samples shall be analyzed for total petroleum hydrocarbons (TPH). The requirements of this section are satisfied if one of the external release detection methods allowed in subsections 5 and 6 of 9VAC25-580-160 is operating in accordance with the requirements in 9VAC25-580-160 at the time of closure, and indicates no release has occurred.

B. In all cases where a sample or samples are analyzed, the owner and operator shall submit, along with the amended UST notification form as required in subsection 1 of 9VAC25-580-320, a copy of the laboratory results (including a statement as to the test method used), a description of the area sampled, and a site map depicting tanks, piping, and sample location or locations.

C. If contaminated soils, contaminated ~~ground water,~~groundwater or free product as a liquid or vapor is discovered under subsection A of this section, or by any other manner, owners and operators must begin corrective action in accordance with Part VI.

9VAC25-580-340. Applicability to previously closed UST systems.

When directed by the board, the owner and operator of an UST system permanently closed before December 22, 1988, must assess the excavation zone and close the UST system in accordance with this part if releases from the UST may, in the judgment of the board, pose a current or potential threat to human health and the environment.

9VAC25-580-350. Closure records.

Owners and operators must maintain records in accordance with 9VAC25-580-120 that are capable of demonstrating compliance with closure requirements under this part. The results of the excavation zone assessment required in 9VAC25-580-330 must be maintained for at least three years after completion of permanent closure or change-in-service in one of the following ways:

1. By the owners and operators who took the UST system out of service;

2. By the current owners and operators of the UST system site; or

3. By mailing these records to the board if they cannot be maintained at the closed facility.

Part VIII
Delegation

9VAC25-580-360. Delegation of authority.

The Director of the Department of Environmental Quality, or in his absence a designee acting for him, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

Part IX Delivery Prohibition

9VAC25-580-370. Requirements for delivery prohibition.

A. No person shall deliver to, deposit into, or accept a petroleum product or other regulated substance into an underground storage tank that has been identified under subdivision G 2 of this section by the board to be ineligible for such delivery, deposit, or acceptance. Unless authorized in writing by the board, no person shall alter, deface, remove, or attempt to remove a tag that prohibits delivery, deposit, or acceptance of a petroleum product or other regulated substance to an underground storage tank.

B. When an inspection or other information provides reason to believe one or more of the following violations exists, the board shall initiate a proceeding in accordance with subsection D of this section:

1. Spill prevention equipment is not installed on the UST system properly as required by 9VAC25-580-50 or 9VAC25-580-60 or is disabled;

2. Overfill protection equipment is not installed on the UST system properly as required by 9VAC25-580-50 or 9VAC25-580-60 or is disabled;

3. Release detection equipment is not installed on the UST system properly or is disabled or a release detection method is not being performed as required by 9VAC25-580-50 or 9VAC25-580-60;

4. Corrosion protection equipment is not installed on the UST system properly as required by 9VAC25-580-50 or 9VAC25-580-60 or is disabled;

5. Secondary containment is not installed on the UST system properly as required by 9VAC25-580-50, 9VAC25-580-60, or 9VAC25-580-150 or is disabled; or

6. The board has reason to believe that an UST system is leaking and the owner or operator has failed to initiate and complete the investigation and confirmation requirements of 9VAC25-580-190 through 9VAC25-580-210.

C. For purposes of subsection B of this section, spill prevention, overfill prevention, corrosion protection, release detection, or secondary containment equipment that is not verifiable as installed is not installed.

D. The board shall provide written notice to the owner and operator pursuant to subdivision G 1 of this section that it will conduct an informal fact finding pursuant to § 2.2-4019 of the Code of Virginia to determine whether the underground storage tank(s) shall be ineligible for delivery, deposit, or acceptance of a petroleum product or other regulated substance. The fact finding shall be scheduled as soon as practicable after the notice, and within 10 business days in any event. Upon a finding to impose delivery prohibition, the board shall affix a tag to the fill pipe of the underground storage tank(s) prohibiting delivery, deposit, or acceptance of a petroleum product or other regulated substance.

E. When the board issues a notice of alleged violation based on an inspection or other information that provides reason to believe a UST system is not in compliance with the requirements of Part II, III, ~~or~~ IV, or X of this chapter not listed in subsection B of this section, the requirements of 9VAC25-580-240 through 9VAC25-580-280, or the requirements of 9VAC25-590 (Petroleum Underground Storage Tank Financial Responsibility Requirements), and the owner or operator fails to comply with the notice of alleged violation within the time prescribed by the board, the board may proceed in accordance with subsection D of this section.

F. The board may classify all underground storage tanks containing petroleum or any other regulated substance at a facility as ineligible for delivery, deposit, or acceptance of a petroleum product or other regulated substance if one or more underground storage tanks at the facility has been classified as ineligible for more than 90 days and the ineligible underground storage tank(s) has neither been closed in accordance with 9VAC25-580-310 or 9VAC25-580-320 nor returned to compliance. The board shall provide written notice to the owner and operator pursuant to subdivision G 1 of this section that it will conduct an informal fact finding pursuant to § 2.2-4019 of the Code of Virginia to determine whether all the underground storage tanks shall be ineligible for delivery, deposit, or acceptance of a petroleum product or other regulated substance. The fact finding shall be scheduled as soon as practicable after the notice, and within 10 business days in any event.

G. Notice.

1. The board shall provide written notice of an informal fact finding to consider delivery prohibition to the owner and operator. The notice shall meet the requirements of § 2.2-4019 of the Code of Virginia. The notice shall further advise the owner and operator of the possibility of a special order pursuant to subsection I of this section.

2. The presence of the delivery prohibition tag on the fill pipe of an ineligible underground storage tank shall be sufficient notice to any person, including the owner, the operator, and product deliverers, that the underground storage tank is ineligible for delivery or deposit. The board may use other methods in addition to the delivery prohibition tag to provide notice to product deliverers.

H. An owner or operator shall notify the board in writing once an ineligible underground storage tank has been returned to compliance and provide a written report detailing all actions that have been taken to return the UST system to compliance, as well as supporting evidence such as test reports, invoices, receipts, inventory records, etc. As soon as practicable after confirming that the underground storage tank is in compliance with the requirements of this chapter or 9VAC25-590, or both, but in no event later than two business days, the board shall remove or authorize the owner or operator, in writing, to remove the delivery prohibition tag.

I. If the board determines that a violation exists that warrants the imposition of delivery prohibition, the board may further consider whether the threat posed by the violation is outweighed by the need for fuel from the underground storage tank(s) in question to meet an

emergency situation or the need for availability of or access to motor fuel in any rural and remote area. If the board finds that such a condition outweighs the immediate risk of the violation, the board may defer imposition of delivery prohibition for up to 180 days. In every such case the director shall consider (i) issuing a special order under the authority of subdivision ~~10~~9 of § 10.1-1186 of the Code of Virginia prescribing a prompt schedule for abating the violation and (ii) imposing a civil penalty.

J. The board may temporarily authorize an owner or operator to accept delivery into an ineligible underground storage tank(s) if such activity is necessary to test or calibrate the underground storage tank(s) or dispenser system.

K. Nothing in this section shall prevent the board or the director from exercising any other enforcement authority including, without limitation, their authority to issue emergency orders and their authority to seek injunctive relief.

~~APPENDIX I. VIRGINIA UNDERGROUND STORAGE TANK NOTIFICATION FORMS.~~ (*Editorial note- the entire APPENDIX I will be repealed.)*

~~Notification for Underground Storage Tanks, EPA Form (50 FR 46602).~~

Notification for Underground Storage Tanks (USTs)

Virginia DEQ Water Form 7530-2

(See reverse for mailing instructions) Rev. (01/03)

STATE USE ONLY

ID Number

Date Received

Date Entered

Entered By

Comments

PART I: PURPOSE OF NOTIFICATION

✓ **Check all that apply:**

- ☐ New (not previously registered) facility
- ☐ New tank(s) at previously registered facility
- ☐ Change in tanks (e.g., upgrade)
- ☐ Change in piping (e.g., upgrade)
- ☐ Temporary closure
- ☐ Tank removal or closure
- ☐ Piping removal or closure
- ☐ Other (specify):
- ☐ Change in tank contents
- ☐ New owner
- ☐ Change in owner address

PART II: OWNERSHIP OF TANKS

A. Owner Name

B. Owner Address

C. City, State, Zip

D. Name of Contact Person

E. Title of Contact Person

F. Phone Number ( ) Fax Number ( )

G. E-mail Address

H. Name of Previous Owner

PART III: LOCATION OF TANKS

A. Facility Name

B. Facility Street Address (P.O. Box not acceptable)

C. City, Zip

D. County or Municipality where Facility is Located

E. Name of Contact Person

F. Title of Contact Person

G. Phone Number ( ) Fax Number ( )

H. E-mail Address

PART IV: TYPE OF OWNER

- ☐ Federal government
- ☐ State government
- ☐ Local government
- ☐ Commercial
- ☐ Private

PART V: TYPE OF FACILITY

- ☐ Retail gas station
- ☐ Petroleum distributor
- ☐ Local government
- ☐ Federal non-military
- ☐ Federal military
- ☐ State government
- ☐ Commercial (non-resale)
- ☐ Industrial
- ☐ Other _____
- ☐ Residence
- ☐ Farm

PART VI: FINANCIAL RESPONSIBILITY

The tank owner has met the financial responsibility requirements contained in 9 VAC 25-590-10 et seq. using the following methods/mechanisms

- ☐ Self Insurance
- ☐ Guarantee
- ☐ Insurance
- ☐ Surety Bond
- ☐ Letter of Credit
- ☐ Trust Fund
- ☐ Virginia Petroleum Storage Tank Fund

PART VII: OWNER CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I understand that the owner of the underground storage tanks hereby registered is responsible for compliance with the requirements of Virginia Regulations 9 VAC 25-580-10 et seq. and federal regulation 40 CFR Part 280, among other requirements. I warrant and represent that I am the owner or that I have the authority to sign this certification on behalf of the owner. I understand that this notification form is sufficient evidence to establish ownership of tanks subject to 9 VAC 25-580-10 et seq.

Name and Title (Type or Print) Signature Date

PART VIII: INSTALLER CERTIFICATION

I certify that the installation of this tank was performed in accordance with all federal, state and local installation requirements. I warrant and represent that I am the installer or that I have the authority to sign this certification on behalf of the installer.

Name and Title (Type or Print) Signature Date

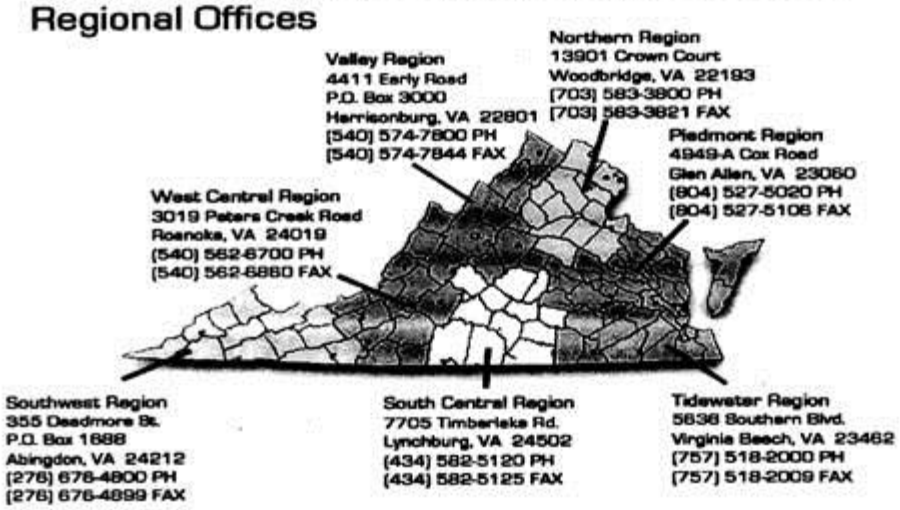
Company Name Address Telephone Number

PART IX: TANK DESCRIPTION FOR NEW INSTALLATIONS AND AMENDMENTS

Owner Tank Identification Number										
DEQ Tank Identification Number										
Tank Status	☐ New Tank ☐ Amendment		☐ New Tank ☐ Amendment		☐ New Tank ☐ Amendment		☐ New Tank ☐ Amendment		☐ New Tank ☐ Amendment	
Date of Installation (MM/DD/YYYY)										
Date of Amendment (MM/DD/YYYY)										
Tank Capacity (Gallons)										
Substance stored (if hazardous, include CERCLA name and/or CAS number)										
Material of Construction (√ all that apply)	Tank	Piping	Tank	Piping	Tank	Piping	Tank	Piping	Tank	Piping
Fiberglass Reinforced Plastic	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Coated and Cathodically Protected/STI-P3®	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Double Walled	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Impressed Current System Steel	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Composite (Steel Clad with Fiberglass)/ACT 100 ®	☐		☐		☐		☐		☐	
Lined Interior	☐		☐		☐		☐		☐	
Polyethylene Tank Jacket	☐		☐		☐		☐		☐	
Concrete	☐		☐		☐		☐		☐	
Excavation Liner	☐		☐		☐		☐		☐	
Asphalt Coated or Bare Steel	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Secondary Containment		☐		☐		☐		☐		☐
Polyflexible piping		☐		☐		☐		☐		☐
Galvanized Steel		☐		☐		☐		☐		☐
Other (specify)										
Has tank/piping been repaired?	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Piping Type	Tank	Piping	Tank	Piping	Tank	Piping	Tank	Piping	Tank	Piping
Safe Suction (No Check Valve at Tank)		☐		☐		☐		☐		☐
U.S. Suction (Check Valve at Tank)		☐		☐		☐		☐		☐
Pressure		☐		☐		☐		☐		☐
Gravity Fed		☐		☐		☐		☐		☐
Release Detection	Tank	Piping	Tank	Piping	Tank	Piping	Tank	Piping	Tank	Piping
Manual Tank Gauging	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Tightness Testing	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Inventory Control	☐		☐		☐		☐		☐	
Automatic Tank Gauging	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Vapor Monitoring	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Groundwater Monitoring	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Interstitial Monitoring-Double Walled	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Interstitial Monitoring-Secondary Containment	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Automatic Line Leak Detectors		☐		☐		☐		☐		☐
Statistical Inventory Reconciliation	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Other (specify)										
Spill Containment & Overfill Prevention	Tank	Piping	Tank	Piping	Tank	Piping	Tank	Piping	Tank	Piping
Spill Containment/Bucket	☐		☐		☐		☐		☐	
Overfill Automatic Shutoff	☐		☐		☐		☐		☐	
Overfill Alarm	☐		☐		☐		☐		☐	
Overfill Ball Float Valve	☐		☐		☐		☐		☐	

PART X: TANK CLOSURE, REMOVAL OR CHANGE IN SERVICE										
Owner Tank Identification Number (assigned or used by owner)										
DEQ Tank Identification Number (assigned by DEQ)										
Tank and Piping Status	Tank	Piping	Tank	Piping	Tank	Piping	Tank	Piping	Tank	Piping
Removal	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Closure in Place	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Filled with Inert Material	☐		☐		☐		☐		☐	
Describe Inert Material										
Temporary Closure	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Change in Service	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Date of Installation (MM/DD/YYYY)										
Tank Capacity (Gallons)										
Substance Stored (If hazardous, include CERCLA name and/or CAS number)										
Material of Construction (√ all that apply)	Tank	Piping	Tank	Piping	Tank	Piping	Tank	Piping	Tank	Piping
Fiberglass Reinforced Plastic	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Coated and Cathodically Protected/STI-P3®	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Double Walled	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Impressed Current System Steel	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Composite (Steel Clad with Fiberglass)/ACT 100®	☐		☐		☐		☐		☐	
Lined Interior	☐		☐		☐		☐		☐	
Polyethylene Tank Jacket	☐		☐		☐		☐		☐	
Concrete	☐		☐		☐		☐		☐	
Excavation Liner	☐		☐		☐		☐		☐	
Asphalt Coated or Bare Steel	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Secondary Containment		☐		☐		☐		☐		☐
Polyflexible Piping		☐		☐		☐		☐		☐
Galvanized Steel		☐		☐		☐		☐		☐
Other (specify)										
Unknown	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Date Last Used (MM/DD/YYYY)										
Date Closed (MM/DD/YYYY)										
Closure Assessment Completed (Please submit site map, soil sampling results, chain of custody for all samples, copy of building permit, and disposal manifest with this form).	☐ Yes ☐ No		☐ Yes ☐ No		☐ Yes ☐ No		☐ Yes ☐ No		☐ Yes ☐ No	
Evidence of a Leak Detected	☐ Yes ☐ No		☐ Yes ☐ No		☐ Yes ☐ No		☐ Yes ☐ No		☐ Yes ☐ No	

Virginia Department of Environmental Quality Regional Offices



Mail notifications to the DEQ Regional Office serving the city or county where the USTs are located.

Regional Offices		Counties and Cities
Northern Regional Office	Counties	Arlington, Caroline, Culpeper, Fairfax, Fauquier, King George, Loudoun, Madison, Orange, Prince William, Rappahannock, Spotsylvania, Stafford, Louisa
	Cities	Alexandria, Falls Church, Fairfax, Fredericksburg, Manassas, Manassas Park
Piedmont Regional Office	Counties	Amelia, Brunswick, Charles City, Chesterfield, Dinwiddie, Essex, Gloucester, Goochland, Greensville, Hanover, Henrico, King and Queen, King William, Lancaster, Mathews, Middlesex, New Kent, Northumberland, Powhatan, Prince George, Richmond, Surry, Sussex, Westmoreland
	Cities	Colonial Heights, Emporia, Hopewell, Petersburg, Richmond
South Central Regional Office	Counties	Amherst, Appomattox, Buckingham, Campbell, Charlotte, Cumberland, Halifax, Lunenburg, Mecklenburg, Nottoway, Prince Edward, Pittsylvania
	Cities	Danville, Lynchburg
Valley Regional Office	Counties	Albemarle, Augusta, Bath, Clarke, Fluvanna, Frederick, Greene, Highland, Nelson, Page, Rockbridge, Rockingham, Shenandoah, Warren
	Cities	Buena Vista, Charlottesville, Harrisonburg, Lexington, Staunton, Waynesboro, Winchester
Southwest Regional Office	Counties	Bland, Buchanan, Carroll, Dickenson, Grayson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, Wythe
	Cities	Bristol, Galax, Norton
West Central Regional Office	Counties	Alleghany, Bedford, Botetourt, Craig, Floyd, Franklin, Giles, Henry, Montgomery, Patrick, Pulaski, Roanoke, Bedford
	Cities	Clifton Forge, Covington, Martinsville, Radford, Roanoke, Salem
Tidewater Regional Office	Counties	Accomack, Isle of Wight, James City, Northampton, Southampton, York
	Cities	Chesapeake, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Poquoson, Suffolk, Virginia Beach, Williamsburg

~~APPENDIX II. STATEMENT FOR SHIPPING TICKETS AND INVOICES.~~

~~A Federal law (the Resource Conservation and Recovery Act (RCRA), as amended (Pub.L. 98-616)) requires owners of certain underground storage tanks to notify designated state or local agencies by May 8, 1986, of the existence of their tanks. Notifications for tanks brought into use after May 8, 1986, must be made within 30 days. Consult EPA's regulations, issued on November 8, 1985, (40 CFR Part 280) to determine if you are affected by this law.~~

Part X UST Systems with Field-Constructed Tanks and Airport Hydrant Fuel Distribution Systems

9VAC25-580-380. General Requirements.

A. Implementation of requirements. Owners and operators must comply with the requirements of this part for UST systems with field-constructed tanks and airport hydrant systems as follows:

1. For UST systems installed before [insert effective date of amendment] the requirements are effective according to the following schedule:

Requirement	Effective Date
Upgrading UST systems; general operating requirements; and operator training	[insert date 3 years after effective date of amendment]
Release detection	[insert date 3 years after effective date of amendment]
Release reporting, response, and investigation; closure; financial responsibility and notification (except as provided in subsection B of this section)	[insert effective date of amendment]

2. For UST systems installed on or after [insert effective date of amendment], the requirements apply at installation.

B. Not later than [insert date 3 years after effective date of amendment], all owners of previously deferred UST systems must submit a one-time notice of tank system existence to the board, using the UST Notification form. Owners and operators of UST systems in use as of [insert effective date of amendment] must demonstrate financial responsibility at the time of submission of the notification form.

C. Except as provided in 9VAC25-580-390, owners and operators must comply with the requirements of Parts I through VII and IX of this chapter and 9VAC25-590 et seq.

D. In addition to the codes of practice listed in 9VAC25-580-50, owners and operators may use military construction criteria, such as Unified Facilities Criteria (UFC) 3-460-01, *Petroleum Fuel Facilities*, when designing, constructing, and installing airport hydrant systems and UST systems with field-constructed tanks.

9VAC25-580-390. Additions, exceptions, and alternatives for UST systems with field-constructed tanks and airport hydrant systems.

A. Exception to piping secondary containment requirements. Owners and operators may use single walled piping when installing or replacing piping associated with UST systems with field-constructed tanks greater than 50,000 gallons and piping associated with airport hydrant systems. Piping associated with UST systems with field-constructed tanks less than or equal to 50,000 gallons not part of an airport hydrant system must meet the secondary containment requirement when installed or replaced.

B. Upgrade requirements. Not later than [insert date three years after effective date of amendment], airport hydrant systems and UST systems with field-constructed tanks where installation commenced before [insert effective date of amendment] must meet the following requirements or be permanently closed pursuant to Part VII of this chapter.

1. Corrosion protection. UST system components in contact with the ground that routinely contain regulated substances must meet one of the following:

a. Except as provided in subsection A of this section, the new UST system performance standards for tanks at 9VAC25-580-50 1 and for piping at 9VAC25-580-50 2; or

b. Be constructed of metal and cathodically protected according to a code of practice developed by a nationally recognized association or independent testing laboratory and meets the following:

(1) Cathodic protection must meet the requirements of 9VAC25-580-50 1 b (2), (3) and (4) for tanks, and 9VAC25-580-50 2 b (2), (3) and (4) for piping.

(2) Tanks greater than 10 years old without cathodic protection must be assessed to ensure the tank is structurally sound and free of corrosion holes prior to adding cathodic protection. The assessment must be by internal inspection or another method determined by the board to adequately assess the tank for structural soundness and corrosion holes.

Note: The following codes of practice may be used to comply with subdivision B:

(A) NACE International Standard Practice SP 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection";

(B) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems";

(C) National Leak Prevention Association Standard 631, Chapter C, "Internal Inspection of Steel Tanks for Retrofit of Cathodic Protection"; or

(D) American Society for Testing and Materials Standard G158, "Standard Guide for Three Methods of Assessing Buried Steel Tanks".

2. Spill and overfill prevention equipment. To prevent spilling and overfilling associated with product transfer to the UST system, all UST systems with field-constructed tanks and airport hydrant systems must comply with new UST system spill and overfill prevention equipment requirements specified in 9VAC25-580-50 3.

C. Walkthrough inspections. In addition to the walkthrough inspection requirements in 9VCA25-580-85, owners and operators must inspect the following additional areas for airport hydrant systems at least once every 30 days if confined space entry according to the Occupational Safety and Health Administration (see 29 CFR Part 1910) is not required or at least annually if confined space entry is required and keep documentation of the inspection according to 9VAC25-580-85 B.

1. Hydrant pits – visually check for any damage; remove any liquid or debris; and check for any leaks, and

2. Hydrant piping vaults – check for any hydrant piping leaks.

D. Release detection. Owners and operators of UST systems with field-constructed tanks and airport hydrant systems must begin meeting the release detection requirements described in this part not later than [insert date three years after effective date of amendment].

1. Methods of release detection for field-constructed tanks and airport hydrant systems. Owners and operators of shop fabricated USTs that are part of airport hydrant systems and field-constructed tanks with a capacity less than or equal to 50,000 gallons must meet the release detection requirements in Part IV of this chapter. Owners and operators of field-constructed tanks with a capacity greater than 50,000 gallons must meet either the requirements in Part IV of this chapter (except 9VAC25-580-160 5 and 6 must be combined with inventory control as stated below) or use one or a combination of the following alternative methods of release detection:

a. Conduct an annual tank tightness test that can detect a 0.5 gallon per hour leak rate;

b. Use an automatic tank gauging system to perform release detection at least every 30 days that can detect a leak rate less than or equal to one gallon per hour. This method must be combined with a tank tightness test that can detect a 0.2 gallon per hour leak rate performed at least every three years;

c. Use an automatic tank gauging system to perform release detection at least every 30 days that can detect a leak rate less than or equal to two gallons per hour. This

method must be combined with a tank tightness test that can detect a 0.2 gallon per hour leak rate performed at least every two years;

d. Perform vapor monitoring (conducted in accordance with 9VAC25-580-160 5 for a tracer compound placed in the tank system) capable of detecting a 0.1 gallon per hour leak rate at least every two years;

e. Perform inventory control (conducted in accordance with Department of Defense Directive 4140.25; ATA Airport Fuel Facility Operations and Maintenance Guidance Manual; or equivalent procedures) at least every 30 days that can detect a leak equal to or less than 0.5 percent of flow-through; and

(1) Perform a tank tightness test that can detect a 0.5 gallon per hour leak rate at least every two years; or

(2) Perform vapor monitoring or groundwater monitoring (conducted in accordance with 9VAC25-580-160 5 or 6, respectively, for the stored regulated substance) at least every 30 days; or

f. Another method approved by the board if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in 9VAC25-580-390 D 1. a. through e. In comparing methods, the board shall consider the size of release that the method can detect and the frequency and reliability of detection.

2. Methods of release detection for piping. Owners and operators of underground piping associated with field-constructed tanks less than or equal to 50,000 gallons must meet the release detection requirements in Part IV of this chapter. Owners and operators of underground piping associated with airport hydrant systems and field-constructed tanks greater than 50,000 gallons must follow either the requirements in Part IV (except 9VAC25-580-160 5 and 6 must be combined with inventory control as stated below) or use one or a combination of the following alternative methods of release detection:

a. Perform a semiannual or annual line tightness test at or above the piping operating pressure in accordance with the table below.

Maximum Leak Detection Rate Per Test Section Volume		
Test Section Volume (Gallons)	Semiannual Test - Leak Detection Rate Not To Exceed (Gallons Per Hour)	Annual Test - Leak Detection Rate Not To Exceed (Gallons Per Hour)
< 50,000	1.0	0.5
≥ 50,000 to < 75,000	1.5	0.75
≥ 75,000 to < 100,000	2.0	1.0
≥ 100,000	3.0	1.5

Piping segment volumes ≥ 100,000 gallons not capable of meeting the maximum 3.0 gallon per hour leak rate for the semiannual test may be tested at a leak rate up to 6.0 gallons per hour according to the following schedule:

Phase In For Piping Segments ≥ 100,000 Gallons In Volume	
First test	Not later than [enter date three years after effective date of amendment] (may use up to 6.0 gph leak rate)
Second test	Between [enter date three years after effective date of rule] and [enter date six years after effective date of

	amendment] (may use up to 6.0 gph leak rate)
Third test	Between [enter date six years after effective date of rule] and [enter date seven years after effective date of amendment] (must use 3.0 gph for leak rate)
Subsequent tests	After [enter date seven years after effective date of amendment], begin using semiannual or annual line testing according to the Maximum Leak Detection Rate Per Test Section Volume table above

b. Perform vapor monitoring (conducted in accordance with 9VAC25-580-160 5 for a tracer compound placed in the tank system) capable of detecting a 0.1 gallon per hour leak rate at least every two years;

c. Perform inventory control (conducted in accordance with Department of Defense Directive 4140.25; ATA Airport Fuel Facility Operations and Maintenance Guidance Manual; or equivalent procedures) at least every 30 days that can detect a leak equal to or less than 0.5 percent of flow-through; and

(1) Perform a line tightness test (conducted in accordance with subdivision 2 a of this section using the leak rates for the semiannual test) at least every two years; or

(2) Perform vapor monitoring or groundwater monitoring (conducted in accordance with 9VAC25-580-160 5 or 6, respectively, for the stored regulated substance) at least every 30 days; or

d. Another method approved by the board if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in 9VAC25-580-390 D 2 a through c. In comparing methods, the board shall consider the size of release that the method can detect and the frequency and reliability of detection.

3. Recordkeeping for release detection. Owners and operators must maintain release detection records according to the recordkeeping requirements in 9VAC25-580-180.

E. Applicability of closure requirements to previously closed UST systems. When directed by the board, the owner and operator of an UST system with field-constructed tanks or airport hydrant system permanently closed before [effective date of rule] must assess the excavation zone and close the UST system in accordance with Part VII if releases from the UST may, in the judgment of the board, pose a current or potential threat to human health and the environment.

FORMS (9VAC25-580)

Notification for Underground Storage Tanks (USTs), Virginia DEQ Water Form 7530-2 (rev. 01-03).

Notification Form, EPA Form ~~(50FR 46602).~~80 FR 41670.

DOCUMENTS INCORPORATED BY REFERENCE (9VAC25-580) (Repealed.)

~~"Standard for Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products." Underwriters Laboratories Standard 1316, Underwriters Laboratories.~~

~~"Standard for Reinforced Plastic Underground Tanks for Petroleum Products," Underwriters Laboratories of Canada, CAN4-S615-M83.~~

~~"Standard Specification for Glass-Fiber-Reinforced Polyester Underground Petroleum Storage Tanks," American Society of Testing and Materials Standard D4021-86.~~

"Specification for STI-P3 System of External Corrosion Protection of Underground Steel Storage Tanks," Steel Tank Institute.

"Corrosion Protection System for Underground Storage Tanks," Underwriters Laboratories, Standard 1746.

"Standard for Steel Underground Tanks for Flammable and Combustible Liquids," Underwriters Laboratories of Canada, CAN4-S603-M85.

"Standard for Galvanic Corrosion Protection Systems for Underground Tanks for Flammable Combustible Liquids," Underwriters Laboratories of Canada, CAN4-G03.1-M88.

"Isolating Bushings for Steel Underground Tanks Protected with Coatings and Galvanic Systems," Underwriters Laboratories of Canada, CAN4-S641-M84.

"Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," National Association of Corrosion Engineers, Standard RP-02-85.

"Standard for Steel Underground Tanks for Flammable and Combustible Liquids," Underwriters Laboratories, Standard 58.

"Specification for the Fabrication of FRP Clad Underground Storage Tank," Association for Composite Tanks, ACT-100.

"UL Listed Non-Metal Pipe," Underwriters Laboratories, Subject 971.

"Pipe Connectors for Flammable and Combustible and LP Gas," Underwriters Laboratories, Standard 567.

"Glass Fiber Reinforced Plastic Pipe and Fittings for Flammable Liquids," Underwriters Laboratories of Canada, Guide ULC-107.

"Flexible Underground Hose Connectors," Underwriters Laboratories of Canada, Standard CAN4-S633-M81.

"Flammable and Combustible Liquids Code," National Fire Protection Association, Standard 30.

"Installation of Underground Petroleum Storage Systems," American Petroleum Institute, Publication 1632.

"Control of External Corrosion on Submerged Metallic Piping Systems," National Association of Corrosion Engineers, Standard RP-01-69.

"Installation of Underground Petroleum Storage System," American Petroleum Institute, Publication 1615.

"Recommended Practice for Bulk Liquid Stock Control at Retail Outlets," American Petroleum Institute Publication 1621.

National Fire Protection Association Publication 385.

"Flammable and Combustible Liquids Code," National Fire Protection Association Standard 30.

"Storing and Handling Ethanol and Gasoline - Ethanol Blends at Distribution Terminals and Service Stations," American Petroleum Institute Publication 1626.

"Storage and Handling of Gasoline - Methanol/Cosolvent Blends at Distribution Terminals and Service Stations," American Petroleum Institute Publication 1627.

"Repairing Crude Oil, Liquified Petroleum Gas and Product Pipelines," American Petroleum Institute Publication 2200.

"Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks," American Petroleum Institute Publication 1631.

"Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection," National Leak Prevention Association Standard 631.

"Recommended Practices for Installation of Underground Liquid Storage Systems," Petroleum Equipment Institute, Publication RP100.

~~"Petroleum Refinery Piping," American National Standards Institute, Standard B31.3.~~

~~"Liquid Petroleum Transportation Piping System," American National Standards Institute, Standard B31.4.~~

~~NFPA 329.~~

~~"Standard for Dual Wall Underground Storage Tanks," Steel Tank Institute.~~

~~"Removal and Disposal of Used Underground Petroleum Storage Tanks," American Petroleum Institute Recommended Practice 1604.~~

~~"Cleaning Petroleum Storage Tanks," American Petroleum Institute, Publication 2015.~~

~~"Criteria for a Recommended Standard - Working in Confined Space," National Institute for Occupational Safety and Health.~~

CHAPTER 590
PETROLEUM UNDERGROUND STORAGE TANK FINANCIAL RESPONSIBILITY REQUIREMENTS

9VAC25-590-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Accidental release" means any sudden or nonsudden release of petroleum arising from operating an underground storage tank that results in a need for corrective action or compensation for bodily injury or property damage, or both, neither expected nor intended by the tank owner or operator.

"Annual aggregate" means the maximum financial responsibility requirement that an owner or operator is required to demonstrate annually.

"Board" means the State Water Control Board.

"Bodily injury" means the death or injury of any person incident to an accidental release from a petroleum underground storage tank; but not including any death, disablement, or injuries covered by workers' compensation, disability benefits or unemployment compensation law or other similar law. Bodily injury may include payment of medical, hospital, surgical, and funeral expenses arising out of the death or injury of any person. This term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

“Chief Financial Officer” in the case of local government owners and operators, means the individual with the overall authority and responsibility for the collection, disbursement, and use of funds by the local government.

"Controlling interest" means direct ownership of at least 50% of the voting stock of another entity.

"Corrective action" means all actions necessary to abate, contain and cleanup a release from an underground storage tank to mitigate the public health or environmental threat from such releases and to rehabilitate state waters in accordance with Parts V (9VAC25-580-190 et seq.) and VI (9VAC25-580-230 et seq.) of 9VAC25 Chapter 580, Underground Storage Tanks: Technical Standards and Corrective Action Requirements. The term does not include those actions normally associated with closure or change in service as set out in Part VII (9VAC25-580-320 et seq.) of 9VAC25 Chapter 580 or the replacement of an underground storage tank.

"Facility" means any development or installation within the Commonwealth that deals in, stores or handles oil, and includes a pipeline.

"Financial reporting year" means the latest consecutive 12-month period for which any of the following reports used to support a financial test is prepared: (i) a 10 K report submitted to the U.S. Securities and Exchange Commission (SEC); (ii) an annual report of tangible net worth submitted to Dun and Bradstreet; (iii) annual reports submitted to the Energy Information Administration or the Rural Utilities Service; or (iv) a year-end financial statement authorized under 9VAC25-590-60 B or C of this chapter. "Financial reporting year" may thus comprise a fiscal or calendar year period.

"Gallons of petroleum pumped" means either the amount pumped into or the amount pumped out of a petroleum underground storage tank.

"Group self-insurance pool" or "pool" means a pool organized by two or more owners and/or operators of underground storage tanks for the purpose of forming a group self-insurance pool in order to demonstrate financial responsibility as required by § 62.1-44.34:12 of the Code of Virginia.

"Legal defense cost" means any expense that an owner or operator or provider of financial assurance incurs in defending against claims or actions brought (i) by the federal government or the board to require corrective action or to recover the costs of corrective action, or to collect civil penalties under federal or state law or to assert any claim on behalf of the Virginia Petroleum Storage Tank Fund; (ii) by or on behalf of a third party for bodily injury or property damage caused by an accidental release; or (iii) by any person to enforce the terms of a financial assurance mechanism.

"Local government" means a municipality, county, town, commission, separately chartered and operated special district, school board, political subdivision of a state, or other special purpose government which provides essential services.

"Member" means an owner or operator of an underground storage tank who has entered into a member agreement and thereby becomes a member of a group self-insurance pool.

"Member agreement" means the written agreement executed between each member and the pool, which sets forth the conditions of membership in the pool, the obligations, if any, of each member to the other members, and the terms, coverages, limits, and deductibles of the pool plan.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in a release from an underground storage tank.

NOTE: This definition is intended to assist in the understanding of this chapter and is not intended either to limit the meaning of "occurrence" in a way that conflicts with standard insurance usage or to prevent the use of other standard insurance terms in place of "occurrence."

"Operator" means any person in control of, or having responsibility for, the daily operation of the UST system.

"Owner" means:

1. In the case of an UST system in use on November 8, 1984, or brought into use after that date, any person who owns an UST system used for storage, use, or dispensing of regulated substances; and

2. In the case of any UST system in use before November 8, 1984, but no longer in use on that date, any person who owned such UST immediately before the discontinuation of its use.

The term "owner" shall not include any person, who, without participating in the management of an underground storage tank or being otherwise engaged in petroleum production, refining, and marketing, holds indicia of ownership primarily to protect the holder's security interest in the tank.

"Owner" or "operator," when the owner or operator are separate parties, refers to the person that is obtaining or has obtained financial assurances.

"Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, association, any state or agency thereof, municipality, county, town, commission, political subdivision of a state, any interstate body, consortium, joint venture, commercial entity, the government of the United States or any unit or agency thereof.

"Petroleum" means petroleum, including crude oil or any fraction thereof, that is liquid at standard conditions of temperature and pressure (60°F and 14.7 pounds per square inch absolute).

"Petroleum marketing facilities" includes all facilities at which petroleum is produced or refined and all facilities from which petroleum is sold or transferred to other petroleum marketers or to the public.

~~"Petroleum marketing firms" means all firms owning petroleum marketing facilities. Firms owning other types of facilities with USTs as well as petroleum marketing facilities are considered to be petroleum marketing firms.~~

"Pool plan" means the plan of self-insurance offered by the pool to its members as specifically designated in the member agreement.

"Property damage" means the loss or destruction of, or damage to, the property of any third party including any loss, damage or expense incident to an accidental release from a petroleum underground storage tank. This term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage. However, such exclusions for property damage shall not include corrective action associated with releases from tanks which are covered by the policy.

"Provider of financial assurance" means a person that provides financial assurance to an owner or operator of an underground storage tank through one of the mechanisms listed in 9VAC25-590-60 through 9VAC25-590-110 and 9VAC25-590-250, including a guarantor, insurer, group self-insurance pool, surety, issuer of a letter of credit or certificate of deposit.

"Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from an UST into ground water, surface water, or upon lands, subsurface soils or storm drain systems.

~~"Responsible person" means any person who is an owner or operator of an underground storage tank at the time the release is reported to the board.~~

"Substantial business relationship" means the extent of a business relationship necessary under Virginia law to make a guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from and depends on existing economic transactions between the guarantor and the owner or operator.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties. For purposes of this definition, "assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

"Termination" under Appendix III and Appendix IV means only those changes that could result in a gap in coverage as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date than the retroactive date of the original policy.

"Underground storage tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground. This term does not include any:

1. Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

2. Tank used for storing heating oil for consumption on the premises where stored;

3. Septic tank;

4. Pipeline facility (including gathering lines) regulated under:

   a. The Natural Gas Pipeline Safety Act of 1968 (49 USC App. 1671, et seq.),

   b. The Hazardous Liquid Pipeline Safety Act of 1979 (49 USC App. 2001, et seq.), or

   c. Which is an intrastate pipeline facility regulated under state laws comparable to the provisions of the law referred to in subdivision 4 a or 4 b of this definition;

5. Surface impoundment, pit, pond, or lagoon;

6. Stormwater or wastewater collection system;

7. Flow-through process tank;

8. Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

9. Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

The term "underground storage tank" or "UST" does not include any pipes connected to any tank which is described in subdivisions 1 through 9 of this definition.

"UST system" or "tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

"9VAC25-580" means the Underground Storage Tanks: Technical Standards and Corrective Action Requirements regulation promulgated by the board.

9VAC25-590-15. Applicability of Incorporated References Based on the Dates That They Became Effective.

Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations is referenced or adopted in this chapter and incorporated by reference, that regulation shall be as it exists and has been published as of July 1, 2016.

9VAC25-590-20. Applicability.

A. This chapter applies to owners and operators of all petroleum UST systems regulated under 9VAC25-580, except as otherwise provided in this section and 9VAC25-590-210.

B. Owners and operators of petroleum UST systems are subject to these requirements ~~if they are in operation on or after the date for compliance established~~ in accordance with 9VAC25-590-30.

C. State and federal government entities whose debts and liabilities are the debts and liabilities of the Commonwealth of Virginia or the United States have the requisite financial strength and stability to fulfill their financial assurance requirements and are relieved of the requirements to further demonstrate an ability to provide financial responsibility under this chapter.

D. The requirements of this chapter do not apply to owners and operators of any UST system described in 9VAC25-580-20 B, ~~or C.~~ 9VAC25-580-20 C 1, 9VAC25-580-20 C 3 or 9VAC25-580-20 C 4.

E. If the owner and operator of a petroleum underground storage tank are separate persons, only one person is required to demonstrate financial responsibility; however, both parties are liable in event of noncompliance.

9VAC25-590-30. Compliance dates.

Owners of petroleum underground storage tanks ~~are required to~~ must comply with the requirements of this chapter. ~~by the following dates:~~ Previously deferred UST systems must comply with the requirements of this chapter according to the schedule in 9VAC25-580-380.

~~1. All petroleum marketing firms owning 1,000 or more USTs and all other UST owners that report a tangible net worth of $20 million or more to the U.S. Securities and Exchange Commission (SEC), Dun and Bradstreet, the Energy Information Administration, or the Rural Utilities Service: January 24, 1989; except that compliance for owners and operators using the mechanisms specified in 9VAC25-590-70 or 9VAC25-590-90 is required by July 24, 1989.~~

~~2. All petroleum marketing firms owning 100-999 USTs: October 26, 1989;~~

~~3. All petroleum marketing firms owning 13-99 USTs at more than one facility: April 26, 1991;~~

~~4. All petroleum UST owners not described in subdivision 1, 2, or 3 of this section, excluding local government entities: December 31, 1993;~~

~~5. All local government entities (including Indian tribes) not included in subdivision 6 of this section: February 18, 1994; or~~

~~6. Indian tribes that own USTs on Indian lands which meet the applicable technical requirements of 9VAC25-580: December 31, 1998.~~

9VAC25-590-40. Amount and scope of financial responsibility requirement.

A. Owners or operators of petroleum underground storage tanks shall demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks at least in the following per-occurrence amounts:

1. For owners or operators of petroleum underground storage tanks that are located at petroleum marketing facilities, or that handle an average of more than 10,000 gallons of petroleum per month based on annual throughput for the previous calendar year; $1 million.

2. For all other owners or operators of petroleum underground storage tanks; $500,000.

B. Owners and operators of petroleum underground storage tanks shall demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks in at least the following annual aggregate amounts:

1. For owners and operators of 1 to 100 petroleum underground storage tanks, $1 million; and

2. For owners and operators of 101 or more petroleum underground storage tanks, $2 million.

C. Owners and operators of petroleum underground storage tanks may use the Virginia Petroleum Storage Tank Fund in combination with one or more of the mechanisms specified in 9VAC25-590-60 through 9VAC25-590-110 and 9VAC25-590-250 to satisfy the financial responsibility as required by this section. The fund may be used to demonstrate financial responsibility for the owner or operator in excess of the amounts specified in 9VAC25-590-210 C 1 up to the per occurrence and annual aggregate requirements specified in this section for both taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases from petroleum underground storage tanks.

D. Owners and operators who demonstrate financial responsibility shall maintain copies of those records on which the determination is based. The following documents may be used for purposes of demonstrating financial responsibility by owners or operators to support a financial responsibility requirement determination:

1. Copies of invoices from petroleum suppliers which indicate the gallons of petroleum pumped into all underground storage tanks on an annual basis.

2. Copies of disposal or recycling receipts which indicate the gallons of petroleum pumped out of all underground storage tanks on an annual basis.

3. Letters from petroleum suppliers or disposal or recycling firms on the supplier's, disposer's or recycler's letterhead, which are signed by the appropriate financial officer and which indicate the gallons of petroleum pumped into or out of all of the owner's or operator's underground storage tanks on an annual basis.

4. Any other form of documentation which the board may deem to be acceptable evidence to support the financial responsibility requirement determination.

E. For the purposes of this section, "a petroleum underground storage tank" means a single containment unit and does not mean combinations of single containment units.

F. If the owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for: (i) taking corrective action; (ii) compensating third parties for bodily injury and property damage caused by sudden accidental releases; or (iii) compensating third parties for bodily injury and property damage caused by nonsudden accidental releases, the amount of assurance provided by each mechanism or

combination of mechanisms shall be in the full amount specified in ~~subsection~~ subsections A and B of this section.

G. If an owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for different petroleum underground storage tanks, the annual aggregate required for each mechanism shall be the amount specified in subsection B of this section.

H. If assurance is being demonstrated by a combination of mechanisms, the owner or operator shall demonstrate financial responsibility in the appropriate amount of annual aggregate assurance specified in subsection B of this section, by the first-occurring effective date anniversary of any one of the mechanisms combined (other than a financial test or guarantee) to provide assurance.

I. The amounts of assurance required under this section exclude legal defense costs.

J. The required per-occurrence and annual aggregate coverage amounts do not in any way limit the liability of the owner or operator.

9VAC25-590-50. Allowable mechanisms and combinations of mechanisms.

A. Subject to the limitations of subsection B of this section, an owner or operator may use any one or combination of the mechanisms listed in 9VAC25-590-60 through 9VAC25-590-110 to demonstrate financial responsibility under this chapter for one or more underground storage tanks. A local government owner or operator may use any one or combination of the mechanisms listed in 9VAC25-590-60 through 9VAC25-590-110 and 9VAC25-590-250 to demonstrate financial responsibility under this chapter for one or more underground storage tanks.

B. An owner or operator may use self-insurance in combination with a guarantee only if, for the purpose of meeting the requirements of the financial test under this chapter, the financial statements of the owner or operator are not consolidated with the financial statements of the guarantor.

9VAC25-590-60. Financial test of self-insurance.

A. An owner or operator and/or guarantor, may satisfy the requirements of 9VAC25-590-40 by passing a financial test as specified in this section. To pass the financial test of self-insurance, the owner or operator and/or guarantor shall meet the requirements of subsection B or C and subsection D of this section based on year-end financial statements for the latest completed financial reporting year.

B. 1. The owner or operator and/or guarantor shall have a tangible net worth at least equal to the total of:

a. The applicable aggregate financial responsibility amount required by 9VAC25-590-40 B for which a financial test is used to demonstrate financial responsibility, except as provided in 9VAC25-590-210; and

b. The aggregate aboveground storage tank financial responsibility amount required under 9VAC25-640, for which a financial test is used to demonstrate financial responsibility.

2. In addition to the requirements set forth in subdivision 1 of this subsection, the owner or operator and/or guarantor shall also have a tangible net worth of at least 10 times:

a. The sum of the corrective action cost estimates, the current closure and postclosure care cost estimates, and amount of liability coverage for which a financial test for self-insurance is used in each state of business operations to demonstrate financial responsibility to the EPA under 40 CFR §§ 264.101(b), 264.143, 264.145, 265.143, 265.145, 264.147, and 265.147 ~~(1997)~~, to another state implementing agency under a state program authorized by EPA under 40 CFR Part 271 ~~(1997)~~ or the Virginia Waste Management Board under 40 CFR 264.143, 264.145 and 264.147 (as incorporated by reference in 9VAC20-60-264) and 40 CFR 265.143, 265.145 and 265.147 (as incorporated by reference in 9VAC20-60-265) of the Virginia Hazardous Waste Management Regulations; and

b. The sum of current plugging and abandonment cost estimates for which a financial test for self-insurance is used in each state of business operations to demonstrate financial responsibility to EPA under 40 CFR 144.63 ~~(1997)~~ or to a state implementing agency under a state program authorized by EPA under 40 CFR Part 145 ~~(1997)~~ (Underground Injection Control Program).

3. The owner or operator, and/or guarantor shall comply with either subdivision a or b below:

a. (1) The financial reporting year-end financial statements of the owner or operator and/or guarantor shall be examined by an independent certified public accountant and be accompanied by the accountant's report of the examination; and

(2) The financial reporting year-end financial statements of the owner or operator and/or guarantor cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

b. (1) (a) File financial statements annually with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Utilities Service; or

(b) Report annually the tangible net worth of the owner or operator and/or guarantor to Dun and Bradstreet, and Dun and Bradstreet shall have assigned a financial strength rating which at least equals the amount of financial responsibility required by the owner or operator under subdivisions 1 and 2 of this subsection. Relevant Dun and Bradstreet ratings are as follows (current Dun and Bradstreet ratings will be used for demonstration requirements which exceed the annual aggregate amounts listed below):

Annual Aggregate Requirement	Dun and Bradstreet Rating
$20,000	EE ($20,000 to $34,999)
$40,000	DC ($50,000 to $74,999)
$80,000	CB ($125,000 to $199,999)
$150,000	BB ($200,000 to $299,999)
$200,000	BB ($200,000 to $299,999)
$300,000	BA ($300,000 to $499,999)
$500,000	1A ($500,000 to $749,999)
$750,000	2A ($750,000 to $999,999)
$1,000,000	3A ($1,000,000 to 9,999,999); and

(2) The financial reporting year-end financial statements of the owner or operator and/or guarantor, if, independently audited, cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

4. The owner or operator and/or guarantor shall have a letter signed by the chief financial officer worded identically as specified in Appendix I/Alternative I or Appendix XI.

C. 1. The owner or operator and/or guarantor shall have a tangible net worth at least equal to the total of:

a. The applicable aggregate amount required by 9VAC25-590-40 B for which a financial test is used to demonstrate financial responsibility, except as provided in 9VAC25-590-210; and

b. The aggregate aboveground storage tank financial responsibility amount required under 9VAC25-640 for which a financial test is used to demonstrate financial responsibility.

2. In addition to the requirements set forth in subdivision 1 of this subsection, the owner or operator and/or guarantor shall also have a tangible net worth of at least six times:

a. The financial test requirements for self insurance of the corrective action cost estimates, the current closure and post-closure care cost estimates, and amount of liability coverage in each state of business operations to the EPA under 40 CFR 264.101(b), 264.143, 264.145, 265.143, 265.145, 264.147, and 265.147 ~~(1997)~~, to another state implementing agency under a state program authorized by EPA under 40 CFR Part 271 ~~(1997)~~ or the Virginia Waste Management Board under 40 CFR 264.143, 264.145 and 264.147 (as incorporated by reference in 9VAC20-60-264) and 40 CFR 265.143, 265.145, and 265.147 (as incorporated by reference in 9VAC20-60-265) of the Virginia Hazardous Waste Management Regulations; and

b. The financial test requirements for self-insurance of current plugging and abandonment cost estimates in each state of business operations to EPA under 40 CFR 144.63 ~~(1997)~~ or to a state implementing agency under a state program authorized by EPA under 40 CFR Part 145 ~~(1997)~~ (Underground Injection Control Program).

3. The financial reporting year-end financial statements of the owner or operator and/or guarantor shall be examined by an independent certified public accountant and be accompanied by the accountant's report of the examination.

4. The financial reporting year-end financial statements of the owner or operator and/or guarantor cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

5. If the financial statements of the owner or operator and/or guarantor are not submitted annually to the U.S. Securities and Exchange Commission, the Energy Information Administration or the Rural Utilities Service, the owner or operator and/or guarantor shall obtain a special report by an independent certified public accountant stating that:

a. The accountant has compared the data that the letter from the chief financial officer specified as having been derived from the latest financial reporting year-end financial statements of the owner or operator and/or guarantor with the amounts in such financial statements; and

b. In connection with that comparison, no matters came to the accountant's attention which caused him to believe that the specified data should be adjusted.

6. The owner or operator and/or guarantor shall have a letter signed by the chief financial officer, worded identically as specified in Appendix I/Alternative II or Appendix XI.

D. To meet the financial demonstration test under subsection B or C of this section, the chief financial officer of the owner or operator and/or guarantor shall sign, within 120 days of the close of each financial reporting year, as defined by the 12-month period for which financial statements used to support the financial test are prepared, a letter worded identically as specified in Appendix I with the appropriate alternative or Appendix XI, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

E. If an owner or operator using the financial test to provide financial assurance finds that he no longer meets the requirements of the financial test based on the financial reporting year-end financial statements, the owner or operator shall obtain alternative coverage within 150 days of the end of the year for which financial statements have been prepared.

F. The board may require reports of financial condition at any time from the owner or operator and/or guarantor. If the board finds, on the basis of such reports or other information, that the owner or operator and/or guarantor no longer meets the financial test requirements of subsection B or C and subsection D of this section, the owner or operator shall obtain alternate coverage within 30 days after notification of such finding.

G. If the owner or operator fails to obtain alternate assurance within 150 days of finding that he no longer meets the requirements of the financial test based on the financial reporting year-end financial statements, or within 30 days of notification by the board that he or she no longer meets the requirements of the financial test, the owner or operator shall notify the board of such failure within 10 days.

9VAC25-590-70. Guarantee.

A. An owner or operator may satisfy the requirements of 9VAC25-590-40 by obtaining a guarantee that conforms to the requirements of this section. The guarantor shall be:

1. A firm that:

a. Possesses a controlling interest in the owner or operator;

b. Possesses a controlling interest in a firm described under subdivision A 1 a of this section; or

c. Is controlled through stock ownership by a common parent firm that possesses a controlling interest in the owner or operator; or

2. A firm engaged in a substantial business relationship with the owner or operator and issuing the guarantee as an act incident to that business relationship.

B. Within 120 days of the close of each financial reporting year, the guarantor shall demonstrate that it meets the financial test criteria of 9VAC25-590-60 B or C and D based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in Appendix I or Appendix XI and shall deliver the letter to the owner or operator. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within 120 days of the end of that financial reporting year, the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator, and the board. If the board notifies the guarantor that he no longer meets the requirements of the financial test of 9VAC25-590-60 B or C and D, the guarantor shall notify the owner or operator within 10 days of receiving such notification from the board. In both cases, the guarantee will terminate no less than 120 days after the date the owner or operator and the board receive the notification, as evidenced by the return receipts. The owner or operator shall obtain alternate coverage as specified in 9VAC25-590-190.

C. The guarantee shall be worded identically as specified in Appendix II, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

D. Under the terms of the guarantee, all amounts paid by the guarantor under the guarantee will be paid directly to the board in accordance with instructions from the board under 9VAC25-590-170.

9VAC25-590-80. Insurance and group self-insurance pool coverage.

A. 1. An owner or operator may satisfy the requirements of 9VAC25-590-40 by obtaining liability insurance that conforms to the requirements of this section from a qualified insurer or by entering into a member agreement with a group self-insurance pool.

2. Such liability insurance may be in the form of a separate insurance policy or an endorsement to an existing insurance policy.

3. Group self-insurance pools shall comply with § 62.1-44.34:12 of the Code of Virginia and the rules promulgated by the State Corporation Commission designated as Chapter 380 of Title 14 of the Virginia Administrative Code and entitled "Rules Governing Underground Storage Tank Owners and Operators Group Self-Insurance Pools," (14VAC5-380).

B. Each liability insurance policy shall be amended by an endorsement worded in no respect less favorable than the coverage as specified in Appendix III, or evidenced by a certificate of insurance worded identically as specified in Appendix IV, except that instructions in brackets shall be replaced with the relevant information and the brackets deleted.

C. Each liability insurance policy shall be issued by an insurer that, at a minimum, is licensed to transact the business of insurance or eligible to provide insurance as an excess or approved surplus lines insurer in the Commonwealth of Virginia.

D. Each group self-insurance pool must be licensed in accordance with 14VAC5-380 and any coverage provided by such a pool shall be evidenced by a certificate of group self-insurance worded identically as specified in Appendix XII, except that instructions in brackets shall be replaced with the relevant information and the brackets deleted.

E. Each liability insurance policy or group self-insurance pool plan shall provide first dollar coverage. The insurer or group self-insurance pool shall be liable for the payment of all amounts within any deductible applicable to the policy to the provider of corrective action or damaged third party, as provided in this chapter, with a right of reimbursement by the insured or member for any such payment made by the insurer or group self-insurance pool. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 9VAC25-590-60 through 9VAC25-590-110 and 9VAC25-590-250.

9VAC25-590-90. Surety bond.

A. An owner or operator may satisfy the requirements of 9VAC25-590-40 by obtaining a surety bond that conforms to the requirements of this section. The surety company issuing the bond shall be licensed to operate as a surety in the Commonwealth of Virginia and be among those listed as acceptable sureties on federal bonds in the latest Circular 570 of the U.S. Department of the Treasury.

B. The surety bond shall be worded identically as specified in Appendix V, except that instructions in brackets shall be replaced with the relevant information and the brackets deleted.

C. Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. In all cases, the surety's liability is limited to the per-occurrence and annual aggregate penal sums.

Under the terms of the bond, all amounts paid by the surety under the bond will be paid directly to the board in accordance with instructions from the board under 9VAC25-590-170.

9VAC25-590-100. Letter of credit.

A. An owner or operator may satisfy the requirements of 9VAC25-590-40 by obtaining an irrevocable standby letter of credit that conforms to the requirements of this section. The issuing institution shall be an entity that has the authority to issue letters of credit in the Commonwealth of Virginia and whose letter-of-credit operations are regulated and examined by a federal agency or the State Corporation Commission.

B. The letter of credit shall be worded identically as specified in Appendix VI, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

C. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the board will be paid by the issuing institution directly to the board in accordance with instructions from the board under 9VAC25-590-170.

D. The letter of credit shall be irrevocable with a term specified by the issuing institution. The letter of credit shall provide that credit will be automatically renewed for the same term as the original term, unless, at least 120 days before the current expiration date, the issuing institution notifies the owner or operator, and the board by certified mail of its decision not to renew the letter of credit. Under the terms of the letter of credit, the 120 days will begin on the date when the owner or operator and the board receive the notice, as evidenced by the return receipts.

9VAC25-590-105. Certificate of deposit.

A. An owner or operator may satisfy the requirements of 9VAC25-590-40, wholly or in part, by assigning all rights, title, and interest of a certificate of deposit to the State Water Control Board, Commonwealth of Virginia. The owner or operator shall maintain the certificate of deposit until the requirements of 9VAC25-590-180 are met. The original assignment and the certificate of deposit, if applicable, must be submitted to the board to prove that the certificate of deposit has been obtained and meets the requirements of this section. A copy of the certificate of deposit shall be maintained at the underground storage tank site or the owner's or operator's place of work located in Virginia. The issuing institution shall be a bank or other financial institution whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC) and whose operations are regulated and examined by the Commonwealth of Virginia, by a federal agency, or by an agency of another state.

B. The owner or operator shall be entitled to demand, receive, and recover the interest and income from the certificate of deposit as it becomes due and payable as long as the market value of the certificate of deposit plus any other mechanisms used continue to at least equal the amount of financial responsibility the owner or operator is required to demonstrate under 9VAC25-590-40.

C. In the event of failure of the owner or operator to comply with the requirements of 9VAC25-590-140, the board shall cash the certificate of deposit.

D. Payments made under the terms of the certificate of deposit will be deposited by the issuing institution directly into the Virginia Petroleum Storage Tank Fund. Payments from the fund shall be approved by the board.

E. The wording of the assignment shall be identical to the wording specified in Appendix XIII.

9VAC25-590-110. Trust fund.

A. An owner or operator may satisfy the requirements of 9VAC25-590-40 by establishing an irrevocable trust fund that conforms to the requirements of this section. The trustee shall be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or the State Corporation Commission.

B. The trust fund shall be irrevocable and shall continue until terminated at the written direction of the grantor and the trustee, or by the trustee and the State Water Control Board, if the grantor ceases to exist. Upon termination of the trust, all remaining trust property, less final trust administration expenses, shall be delivered to the owner or operator. The wording of the trust agreement shall be identical to the wording specified in Appendix VII, and shall be accompanied by a formal certification of acknowledgment as specified in Appendix VIII.

C. The irrevocable trust fund, when established, shall be funded for the full required amount of coverage, or funded for part of the required amount of coverage and used in combination with other mechanism or mechanisms that provide the remaining required coverage.

D. If the value of the trust fund is greater than the required amount of coverage, the owner or operator may submit a written request to the board for release of the excess.

E. If other financial assurance as specified in this chapter is substituted for all or part of the trust fund, the owner or operator may submit a written request to the board for release of the excess.

F. Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection D or E of this section, the board will instruct the trustee to release to the owner or operator such funds as the board specifies in writing.

9VAC25-590-120. [Repealed]

9VAC25-590-130. Substitution of financial assurance mechanisms by owner or operator.

A. An owner or operator may substitute any alternate financial assurance mechanisms as specified in this chapter, provided that at all times he maintains an effective financial assurance mechanism or combination of mechanisms that satisfies the requirements of 9VAC25-590-40.

B. After obtaining alternate financial assurance as specified in this chapter, an owner or operator may cancel a financial assurance mechanism by providing notice to the provider of financial assurance.

9VAC25-590-140. Cancellation or nonrenewal by a provider of financial assurance.

A. Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending a notice of termination by certified mail to the owner or operator, and the board.

1. Termination of a local government guarantee, a guarantee, a surety bond, or a letter of credit may not occur until 120 days after the date on which the owner or operator, and the board receive the notice of termination, as evidenced by the return receipts.

2. Termination of insurance or group self-insurance pool coverage, except for nonpayment or misrepresentation by the insured, may not occur until 60 days after the

date on which the owner or operator and the board receive the notice of termination, as evidenced by the return receipts. Termination for nonpayment of premium or misrepresentation by the insured may not occur until a minimum of 15 days after the date on which the owner or operator and the board receive the notice of termination, as evidenced by the return receipts.

B. If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in 9VAC25-590-190, the owner or operator shall obtain alternate coverage as specified in this section within 60 days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within 60 days after receipt of the notice of termination, the owner or operator shall immediately notify the board of such failure and submit:

1. The name and address of the provider of financial assurance;

2. The effective date of termination; and

3. The evidence of the financial assurance mechanism subject to the termination maintained in accordance with 9VAC25-590-160 B.

9VAC25-590-150. Reporting by owner or operator.

A. An owner or operator shall submit the appropriate original forms listed in 9VAC25-590-160 B documenting current evidence of financial responsibility to the board within 30 days after the owner or operator identifies or confirms a release from an underground storage tank required to be reported under 9VAC25-580-220 or 9VAC25-580-240. For all subsequent releases within the same period of time for which the documents submitted according to this subsection are still effective, the owner or operator shall submit a letter which identifies the owner's or operator's name and address and the underground storage tanks' location by site name, street address, board incident designation number and a statement that the financial responsibility documentation previously provided to the board is currently in force.

B. An owner or operator shall submit the appropriate forms listed in 9VAC25-590-160 B documenting current evidence of financial responsibility to the board if the owner or operator fails to obtain alternate coverage as required by this chapter within 30 days after the owner or operator receives notice of:

1. Commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a provider of financial assurance as a debtor;

2. Suspension or revocation of the authority of a provider of financial assurance to issue a financial assurance mechanism;

3. Failure of a guarantor to meet the requirements of the financial test; or

4. Other incapacity of a provider of financial assurance.

C. An owner or operator shall submit the appropriate forms listed in 9VAC25-590-160 B documenting current evidence of financial responsibility to the board as required by 9VAC25-590-60 G and 9VAC25-590-140 B.

D. An owner or operator shall certify compliance with the financial responsibility requirements of this chapter as specified in the new tank notification form (Form 7530) when notifying the board of the installation of a new underground storage tank under 9VAC25-580-70.

E. The board may require an owner or operator to submit evidence of financial assurance as described in 9VAC25-590-160 B or other information relevant to compliance with this chapter at any time.

9VAC25-590-160. Recordkeeping.

A. Owners or operators shall maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility under this chapter for an underground storage tank until released from the requirements of this chapter under 9VAC25-590-180. An owner or operator shall maintain such evidence at the underground storage tank site or the owner's or operator's place of work in this Commonwealth. Records maintained off-site shall be made available upon request of the board.

B. Owners or operators shall maintain the following types of evidence of financial responsibility:

1. An owner or operator using an assurance mechanism specified in 9VAC25-590-60 through 9VAC25-590-110 and 9VAC25-590-250 shall maintain a copy of the instrument worded as specified.

2. An owner or operator using a financial test or guarantee, or a local government financial test or a local government guarantee supported by the local government financial test, shall maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. Such evidence shall be on file no later than 120 days after the close of the financial reporting year.

3. A local government owner or operator using the local government bond rating test under 9VAC25-590-250 shall maintain a copy of its bond rating published within the last 12 months by Moody's or Standard & Poor's.

4. A local government owner or operator using the local government guarantee under 9VAC25-590-250, where the guarantor's demonstration of financial responsibility relies on the bond rating test under 9VAC25-590-250 shall maintain a copy of the guarantor's bond rating published within the last 12 months by Moody's or Standard & Poor's.

5. An owner or operator using an insurance policy or group self-insurance pool coverage shall maintain a copy of the signed insurance policy or group self-insurance pool plan and membership agreement, with the endorsement or certificate of insurance and any amendments to the agreements.

6. An owner or operator using a local government fund under 9VAC25-590-250 shall maintain the following documents:

a. A copy of the state constitutional provision or local government statute, charter, ordinance or order dedicating the fund; and

b. Year-end financial statements for the most recent completed financial reporting year showing the amount in the fund. If the fund is established under 40 CFR 280.107(a)(3) ~~(1997)~~ (as incorporated by reference in 9VAC25-590-250) using incremental funding backed by bonding authority, the financial statements shall show the previous year's balance, the amount of funding during the year, and the closing balance in the fund.

If the fund is established under ~~40 CFR 280.107(a)(3)~~40 CFR 280.107(c) ~~(1997)~~ (as incorporated by reference in 9VAC25-590-250) using incremental funding backed by bonding authority, the owner or operator shall also maintain documentation of the required bonding authority, including either the results of a voter referendum (under ~~40 CFR 280.107(a)(3)(i)~~ 40 CFR 280.107(c)(1) ~~(1997))~~ (as incorporated by reference in 9VAC25-590-250), or attestation by the Virginia Attorney General as specified under ~~40 CFR 280.107(a)(3)(ii)~~ 40 CFR 280.107(c)(2) ~~(1997)~~ (as incorporated by reference in 9VAC25-590-250).

7. A local government owner or operator using the local government guarantee supported by the local government fund shall maintain a copy of the guarantor's year-end financial statements for the most recent completed financial reporting year showing the amount of the fund.

8. a. An owner or operator using an assurance mechanism specified in 9VAC25-590-60 through 9VAC25-590-110, 9VAC25-590-210 or 9VAC25-590-250 shall maintain an updated copy of a certification of financial responsibility worded identically as specified in Appendix IX, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

b. The owner or operator shall update this certification whenever the financial assurance mechanism or mechanisms used to demonstrate financial responsibility changes.

9VAC25-590-170. Drawing on financial assurance mechanism.

A. Except as specified in subsection D of this section, the board ~~may~~shall require the guarantor, surety, or institution issuing a letter of credit or certificate of deposit to pay to the board an amount up to the limit of funds provided by the financial assurance mechanism if:

1. The owner or operator fails to establish alternate financial assurance within 60 days after receiving notice of cancellation of the guarantee, surety bond, letter of credit, or certificate of deposit; or

2. The conditions of subsection B of this section are satisfied.

B. The board shall deposit the financial assurance funds forfeited pursuant to subsection A of this section into the Virginia Petroleum Storage Tank Fund. The board may use the financial responsibility funds obtained pursuant to subsection A of this section to conduct corrective action or to pay a third party claim when:

1. The board makes a final determination that a release has occurred and immediate or long-term corrective action for the release is needed, and the owner or operator, after appropriate notice and opportunity to comply, has not conducted corrective action as required under Part VI (9VAC25-580-230 et seq.); or

2. The board has received either:

a. Certification from the owner or operator and the third party liability claimant or claimants and from attorneys representing the owner or operator and the third party liability claimant or claimants that a third party liability claim should be paid. The certification shall be worded identically as specified in Appendix X, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted; or

b. A valid final court order establishing a judgment against the owner or operator for bodily injury or property damage caused by an accidental release from an underground storage tank covered by financial assurance under this chapter and the board determines that the owner or operator has not satisfied the judgment.

C. If the board determines that the amount of corrective action costs and third party liability claims eligible for payment under subsection B of this section may exceed the obligation of the provider of financial assurance, the first priority for payment shall be corrective action costs necessary to protect human health and the environment. The board shall direct payment of the financial responsibility funds for third party liability claims in the order in which the board receives certifications under subdivision B 2 a of this section and valid court orders under subdivision B 2 b of this section.

D. A local government acting as guarantor under 40 CFR 280.106(e) ~~(1997)~~ (as incorporated by reference in 9VAC25-590-250), the local government guarantee without standby trust, shall make payments as directed by the board under the circumstances described in subsection A, B or C of this section.

9VAC25-590-180. Release from the requirements.

An owner or operator is no longer required to maintain financial responsibility under this chapter for an underground storage tank after the tank has been ~~properly~~ permanently closed or undergoes a change-in-service ~~to an unregulated use properly completed~~ or, if corrective action is required, after corrective action has been completed and the tank has been ~~properly~~ permanently closed or undergoes a change-in-service as required by Part VII (9VAC25-580-320 et seq.) of 9VAC25 Chapter 580.

9VAC25-590-190. Bankruptcy or other incapacity of owner, operator or provider of financial assurance.

A. Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming an owner or operator as debtor, the owner or operator shall notify the board by certified mail of such commencement and submit the appropriate forms listed in 9VAC25-590-160 B documenting current financial responsibility.

B. Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a guarantor providing financial assurance as debtor, such guarantor shall notify the owner or operator and the board by certified mail of such commencement as required under the terms of the guarantee specified in 9VAC25-590-70.

C. Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a local government owner or operator as debtor, the local government owner or operator shall notify the board by certified mail of such commencement and submit the appropriate forms listed in 9VAC25-590-160 B documenting current financial responsibility.

D. Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a guarantor providing a local government financial assurance as debtor, such guarantor shall notify the local government owner or operator and the board by certified mail of such commencement as required under the terms of the guarantee specified in 40 CFR 280.106 ~~(1997)~~ (as incorporated by reference in 9VAC25-590-250).

E. An owner or operator that obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, group self-insurance pool plan, surety bond, letter of credit, or certificate of deposit. The owner or operator shall obtain alternate financial assurance as specified in this regulation within 30 days after receiving notice of such an event. If the owner or operator does not obtain alternate coverage within 30 days after such notification, he shall immediately notify the board in writing.

F. Within 30 days after receipt of written notification that the Virginia Petroleum Storage Tank Fund has become incapable of covering assured corrective action or third party compensation costs, the owner or operator shall obtain alternate financial assurance in accordance with 9VAC25-590-40.

9VAC25-590-200. Replenishment of guarantees, letters of credit, certificates of deposit, or surety bonds.

A. If at any time a letter of credit, certificate of deposit, surety bond, or guarantee is drawn upon by instruction of the board and the board has expended all or part of the funds for corrective action or to pay a third party liability claim(s), the owner or operator by the anniversary date of the financial assurance mechanism shall:

1. Replenish the value of the financial assurance mechanism to equal the full amount of coverage required; or

2. Acquire another financial assurance mechanism for the amount by which the face value of the letter of credit, certificate of deposit, surety bond, or guarantee has been reduced.

B. For purposes of this section, the full amount of coverage required is the amount of coverage to be provided by 9VAC25-590-40. If a combination of mechanisms was used to provide the assurance funds which were drawn upon, replenishment shall occur by the earliest anniversary date among the mechanisms.

9VAC25-590-210. Virginia Petroleum Storage Tank Fund.

A. The Virginia Petroleum Storage Tank Fund will be used for costs in excess of the financial responsibility requirements specified under subsection C of this section up to $1 million per occurrence for both taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases from petroleum underground storage tanks in accordance with the following:

1. Corrective action disbursements for accidental releases with no associated third party disbursements from the fund shall not exceed:

a. $995,000 for the $5,000 corrective action requirement;

b. $990,000 for the $10,000 corrective action requirement;

c. $980,000 for the $20,000 corrective action requirement;

d. $970,000 for the $30,000 corrective action requirement;

e. $950,000 for the $50,000 corrective action requirement.

Third party disbursements for accidental releases with no corrective action disbursements from the fund shall not exceed:

a. $985,000 for the $15,000 third party requirement;

b. $970,000 for the $30,000 third party requirement;

c. $940,000 for the $60,000 third party requirement;

d. $880,000 for the $120,000 third party requirement;

e. $850,000 for the $150,000 third party requirement.

Combined corrective action and third party disbursements from the fund shall not exceed:

a. $980,000 for the $20,000 combined requirement;

b. $960,000 for the $40,000 combined requirement;

c. $920,000 for the $80,000 combined requirement;

d. $850,000 for the $150,000 combined requirement;

e. $800,000 for the $200,000 combined requirement.

The first priority for disbursements from the fund shall be for corrective action costs necessary to protect human health and the environment.

2. Reasonable and necessary costs of compensating third parties for bodily injury and property damage shall be paid only (i) in accordance with final court orders in cases which have been tried to final judgment no longer subject to appeal, (ii) in accordance with final arbitration awards not subject to appeal, or (iii) where the board approved the settlement of claim between the owner or operator and the third party prior to execution by the parties. The reasonableness and necessity of costs shall be determined based upon documented or actual damage, loss in value, and other relevant factors.

The Commonwealth has not waived its sovereign immunity and does not believe that it is a necessary party to a private action against an owner or operator for third party bodily injury and property damage.

3. Owner or operator managed cleanups. An owner or operator, including an operator of a facility or an owner or operator of an underground storage tank exempted in subdivisions 1 and 2 of the definition of an underground storage tank in 9VAC25-590-10 and an aboveground storage tank with a capacity of 5,000 gallons or less used for storing heating oil for consumption on the premises where stored, responding to a release and conducting a board approved corrective action plan in accordance with Parts V and VI (9VAC25-580-190 through 9VAC25-580-310) may proceed to pay for all costs incurred for such activities. An accounting submitted to the board of all costs incurred will be reviewed and those costs in excess of the financial responsibility requirements up to $1 million which are reasonable and have been approved by the board will be reimbursed from the fund.

4. Owners or operators shall pay the financial responsibility requirement specified in this section for each occurrence.

5. No person shall receive reimbursement from the fund for third party bodily injury or property damage:

a. Where the release, occurrence, injury or property damage is caused, in whole or in part, by the willful misconduct or negligence of the owner or operator, his employee, contractor, or agent, or anyone within his privity or knowledge;

b. Where the claim cost has been reimbursed or is reimbursable by an insurance policy;

c. Where the costs or damages were incurred pursuant to § 10.1-1232 of the Code of Virginia and the regulations promulgated thereunder;

d. Where the release was reported before December 22, 1989; or

e. Where the owner or operator does not demonstrate the reasonableness and necessity of the claim costs.

B. No person, including an operator of a facility or an owner or operator of an underground storage tank exempted in subdivisions 1 and 2 of the definition of an underground storage tank in 9VAC25-590-10 and an aboveground storage tank with a capacity of 5,000 gallons or less used for storing heating oil for consumption on the premises where stored, shall receive reimbursement from the fund for any costs or damages incurred:

1. Where the person, his employee, contractor or agent, or anyone within the privity or knowledge of that person, has violated substantive environmental regulations under 9VAC25-580 or this chapter;

2. Where the release occurrence is caused, in whole or in part, by the willful misconduct or negligence of the person, his employee, contractor or agent, or anyone within the privity or knowledge of that person;

3. Where the person, his employee, contractor or agent, or anyone within the privity or knowledge of that person has (i) failed to carry out the instructions of the board, committed willful misconduct or been negligent in carrying out or conducting actions under Part V or VI (9VAC25-580-190 through 9VAC25-580-310) or (ii) has violated applicable federal or state safety, construction or operating laws or regulations in carrying out or conducting actions under Parts V or VI (9VAC25-580-190 through 9VAC25-580-310);

4. Where the claim has been reimbursed or is reimbursable by an insurance policy;

5. Where the costs or damages were incurred pursuant to § 10.1-1232 of the Code of Virginia and the regulations promulgated thereunder;

6. For corrective action taken prior to December 22, 1989, by an owner or operator of an underground storage tank, or an owner of an underground storage tank exempted in subdivisions 1 and 2 of the definition of an underground storage tank in 9VAC25-590-10, or an owner of an aboveground storage tank with a capacity of 5,000 gallons or less used for storing heating oil for consumption on the premises where stored; or

7. Prior to January 1, 1992, by an operator of a facility for containment and cleanup of a release from a facility of a product subject to 62.1-44.34:13 of the Code of Virginia.

C. 1. The fund will be used to demonstrate financial responsibility requirements for owners or operators in excess of the amounts specified in this subdivision up to the per occurrence and annual aggregate requirements specified in 9VAC25-590-40 for both taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases from petroleum underground storage tanks.

a. Owners and operators with 600,000 gallons or less of petroleum pumped on an annual basis into all underground storage tanks owned or operated, $5,000 per occurrence for taking corrective action and $15,000 per occurrence for compensating third parties, with an annual aggregate of $20,000.

b. Owners and operators with between 600,001 to 1,200,000 gallons of petroleum pumped on an annual basis into all underground storage tanks owned or operated, $10,000 per occurrence for taking corrective action and $30,000 per occurrence for compensating third parties, with an annual aggregate of $40,000.

c. Owners and operators with between 1,200,001 to 1,800,000 gallons of petroleum pumped on an annual basis into all underground storage tanks owned or operated, $20,000 per occurrence for taking corrective action and $60,000 per occurrence for compensating third parties, with an annual aggregate of $80,000.

d. Owners and operators with between 1,800,001 to 2,400,000 gallons of petroleum pumped on an annual basis into all underground storage tanks owned or operated,

$30,000 per occurrence for taking corrective action and $120,000 per occurrence for compensating third parties, with an annual aggregate of $150,000.

e. Owners and operators with in excess of 2,400,000 gallons of petroleum pumped on an annual basis into all underground storage tanks owned or operated, $50,000 per occurrence for taking corrective action and $150,000 per occurrence for compensating third parties, with an annual aggregate of $200,000.

2. The fund may be used to satisfy only the portion of an owner or operator's financial responsibility requirement specified in subdivision 1 of this subsection and, therefore, shall be used in combination with one or more of the mechanisms specified in 9VAC25-590-60 through 9VAC25-590-110 and 9VAC25-590-250.

3. The requirements of 9VAC25-590-40 B apply solely to financial responsibility demonstration requirements under this section, and shall not affect reimbursements paid under this section.

D. This fund may also be used for the following:

1. Costs incurred by the board for taking immediate corrective action to contain or mitigate the effects of any release of petroleum into the environment from an underground storage tank if such action is necessary, in the judgment of the board to protect human health and the environment.

2. Costs incurred by the board for taking corrective action up to $1 million for any release of petroleum into the environment from an underground storage tank:

a. Whose owner or operator cannot be determined by the board within 90 days; or

b. Whose owner or operator is incapable, in the judgment of the board, of carrying out such corrective action properly.

3. Costs incurred by the board for taking corrective action for any release of petroleum into the environment from tanks which are otherwise specifically listed in 9VAC25-590-10 as exemptions in the definition of an underground storage tank.

4. All other uses authorized by § 62.1-44.34:11 of the Code of Virginia.

E. The board shall seek recovery of fund moneys expended for corrective action in accordance with § 62.1-44.34:11 of the Code of Virginia where the owner or operator has violated substantive environmental regulations under 9VAC25-580 or this chapter.

F. The board shall have the right of subrogation for moneys expended from the fund as compensation for bodily injury, death, or property damage against any person who is liable for such injury, death or damage.

G. No funds shall be paid for reimbursement of costs incurred by an owner or operator for corrective action and for compensating third parties for bodily injury and property damage prior to December 22, 1989.

H. No disbursements shall be made from the fund for owners or operators who are federal government entities or whose debts and liabilities are the debts and liabilities of the United States.

I. No funds shall be paid in excess of the minimum disbursement necessary to cleanup each occurrence to the acceptable level of risk, as determined by the board in its sole discretion.

9VAC25-590-220. Notices to the State Water Control Board.

All requirements of this regulation for notification to the State Water Control Board shall be addressed as follows:

Director

Department of Environmental Quality

629 E. Main Street

P.O. Box 1105

Richmond, Virginia 23218

9VAC25-590-230. Delegation of authority.

The Director of the Department of Environmental Quality or a designee acting for him may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

9VAC25-590-240. Lender liability.

The U.S. Environmental Protection Agency regulations on lender liability contained in the Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST) (40 CFR 280.200 through 280.230 ~~(1997))~~) are incorporated by reference into this chapter as amended by the word or phrase substitutions given in 9VAC25-590-260.

9VAC25-590-250. Local government financial responsibility demonstration.

A. Except as otherwise provided, the U.S. Environmental Protection Agency regulations on local government financial responsibility demonstration contained in the Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST) (40 CFR 280.104 through 280.107 ~~(1997))~~) are incorporated by reference into this chapter as amended by the word or phrase substitutions given in 9VAC25-590-260.

B. A local government demonstrating financial responsibility pursuant to 40 CFR 280.106 shall demonstrate using the guarantee arrangement entitled "Local Government Guarantee Without Standby Trust Made by a Local Government."

9VAC25-590-260. ~~Word or phrase substitutions~~Modifications to language incorporated by reference.

In 9VAC25-590-240 and 9VAC25-590-250, the following substitutions apply:

1. All terms which are defined in 9VAC25-590-10 shall be given the definition contained in 9VAC25-590-10;

2. a. Director of the Department of Environmental Quality for director of the implementing agency;

b. Department of Environmental Quality for the implementing agency;

c. UST preventative and operating requirements under 9VAC25-580 for UST technical standards;

d. 9VAC25-580 and 9VAC25-590 for 40 CFR Part 280 ~~(1997)~~;

e. 9VAC25-580-230 through 9VAC25-580-300 for 40 CFR Part 280, Subpart F ~~(1997)~~;

f. 9VAC25-590 for 40 CFR Part 280, Subpart H ~~(1997)~~;

g. 9VAC25-580-50 for 40 CFR 280.20;

h. 9VAC25-580-60 for 40 CFR 280.21;

i. ~~9VAC25-580-70 for 40 CFR 280.22 (1997);~~ 9VAC25-580-90 for 40 CFR 280.31;

j. ~~9VAC25-580-90 for 40 CFR 280.31;~~9VAC25-580-190 for 40 CFR 280.50;

k. 9VAC25-580-200 through 9VAC25-580-300 for 40 CFR 280.51 through 280.67;

l. 9VAC25-580-310 for 40 CFR 280.70;

m. 9VAC25-580-320 through 9VAC25-580-350 for 40 CFR 280.71 through 280.74;

n. 9VAC25-580-330 for 40 CFR 280.72;

o. ~~9VAC25-590-20~~9VAC25-590-10 through 9VAC25-590-160 for 40 CFR 280.90 through 280.111;

p. 9VAC25-590-40 for 40 CFR 280.93;

q. 9VAC25-590-170 for 40 CFR 280.112 ~~(1997)~~; and

r. 9VAC25-590-190 for 40 CFR 280.114.

APPENDIX I. LETTER FROM CHIEF FINANCIAL OFFICER.

NOTE: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.

[NOTE: Owners or operators demonstrating financial responsibility using the financial test who do not also own or operate hazardous waste facilities or underground injection wells are eligible to use Appendix XI (Letter from Chief Financial Officer—Short Form) instead of Appendix I.]

I am the chief financial officer of [insert name and address of the owner or operator or guarantor]. This letter is in support of the use of [insert "the financial test of self-insurance," and/or "Guarantee"] to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert "sudden accidental releases" ~~and/or~~ or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert dollar amount] corrective action per occurrence and [insert dollar amount] third party liability per occurrence and [insert dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this financial test by this [insert "owner or operator," and/or "guarantor"]: [List for each facility the name and address of the facility where tanks assured by this financial test are located, and whether tanks are assured by this financial test. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to 9VAC25-580-70 (Underground Storage Tanks; Technical Standards and Corrective Action Requirements)].

A [insert "financial test," and/or "guarantee"] is also used by this [insert "owner or operator" or "guarantor"] to demonstrate evidence of financial responsibility in the following amounts under other EPA regulations or state programs authorized by EPA under 40 CFR Parts 271 and 145 ~~(1997)~~:

EPA Regulation for each state of business operations (specify state):

	Amount
Closure (Sections 264.143 and 265.143)	$_____
Post Closure Care (Sections 264.145 and 265.145)	$_____
Liability Coverage (Sections 264.147 and 265.147)	$_____
Corrective Action (Section 264.101(b))	$_____
Plugging and Abandonment (Section 144.63)	$_____
Other State Programs (specify state):	
Closure	$_____
Post-Closure Care	$_____
Liability Coverage	$_____
Corrective Action	$_____
Plugging and Abandonment	$_____
Virginia Hazardous Waste Management Regulations:	
Closure (9VAC20-60-264 and 9VAC20-60-265 C)	$_____
Post-Closure Care (9VAC20-60-264 and 9VAC20-60-265)	$_____
Liability Coverage (9VAC20-60-264 and 9VAC20-60-265)	$_____
Corrective Action (9VAC20-60-264)	$_____
Plugging and Abandonment (40 CFR Section 144.63) ~~(1997)~~	$_____
TOTAL	$_____

This [insert "owner or operator," or "guarantor"] has not received an adverse opinion, a disclaimer of opinion, or a "going concern" qualification from an independent auditor on his financial statements for the latest completed fiscal year.

[Fill in the information for Alternative I if the criteria of 9VAC25-590-60 B are being used to demonstrate compliance with the financial test requirements. Fill in the information for Alternative II if the criteria of 9VAC25-590-60 C are being used to demonstrate compliance with the financial test requirements.]

ALTERNATIVE I

1. Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee.....$_____

2. Amount of annual aboveground storage tank (AST) aggregate coverage being assured by a financial test and/or guarantee pursuant to 9VAC25-640.....$_____

3. Total UST/AST financial responsibility obligations assured by a financial test and/or guarantee (sum of lines 1 and 2).....$_____

4. Amount of corrective action, closure and post-closure care costs, liability coverage, [and] plugging and abandonment costs covered by a financial test, and/or guarantee under other EPA regulations or state programs authorized by EPA under 40 CFR Part 145 or 271 ~~(1997)~~.....$_____

5. Sum of lines 3 and 4.....$_____

6. Total tangible assets.....$_____

7. Total liabilities [if any of the amount reported on line 5 is included in total liabilities, you may deduct that amount from this line or add that amount to line 8].....$_____

8. Tangible net worth [subtract line 7 from line 6].....$_____

9. Is line 8 at least equal to line 3 above? Yes.... No.....

10. Is line 8 at least equal to the sum of line 3 plus 10 times line 4? Yes.... No....

11. Have financial statements for the latest financial reporting year been filed with the Securities and Exchange Commission? Yes.... No....

12. Have financial statements for the latest financial reporting year been filed with the Energy Information Administration? Yes.... No....

13. Have financial statements for the latest financial reporting year been filed with the Rural Utilities Service? Yes.... No....

14. Has financial information been provided to Dun and Bradstreet, and has Dun and Bradstreet provided a financial strength rating at least equal to the total amount of annual aggregate coverage being assured as entered on line 5, according to the table below?

Annual Aggregate Requirement	Dun and Bradstreet Rating
$20,000	EE ($20,000 to $34,999)
$40,000	DC ($50,000 to $74,999)
$80,000	CB ($125,000 to $199,999)
$150,000	BB ($200,000 to $299,999)
$200,000	BB ($200,000 to $299,999)
$300,000	BA ($300,000 to $499,999)
$500,000	1A ($500,000 to $749,999)
$750,000	2A ($750,000 to $999,999)
$1,000,000	3A ($1,000,000 to 9,999,999)

[Answer "Yes" only if both criteria have been met.] Yes.... No....

15. If you did not answer yes to one of lines 11 through 14, please attach a report from an independent-certified public accountant certifying that there are no material differences between the data reported in lines 6 through 10 above and the financial statements for the latest financial reporting year.

ALTERNATIVE II

1. Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee.

2. Amount of annual aboveground storage tank (AST) aggregate coverage being assured by a financial test and/or guarantee pursuant to 9VAC25-640.....$_____

3. Total UST/AST financial responsibility obligations assured by a financial test and/or guarantee (sum of lines 1 and 2).....$_____

4. Amount of corrective action closure and post-closure care costs, liability coverage, [and] plugging and abandonment costs covered by a financial test, and/or guarantee under other EPA regulations or state programs authorized by EPA under 40 CFR Parts 271 or 145.....$_____

5. Sum of lines 3 and 4.....$_____

6. Total tangible assets.....$_____

7. Total liabilities [if any of the amount reported on line 5 is included in total liabilities, you may deduct that amount from this line or add that amount to line 8].....$_____

8. Tangible net worth [subtract line 7 from line 6].....$_____

9. Total assets in the U.S. [required only if less than 90% of assets are located in the U.S.].....$_____

10. Is line 8 at least equal to line 3 above? Yes___ No___

11. Is line 8 at least equal to the sum of line 3 plus 6 times the sum of line 4? Yes___ No___

12. Are at least 90% of assets located in the U.S.? [If "No," complete line 13.] Yes___ No___

13. Is line 9 at least equal to the sum of line 1 3 plus 6 times the sum of line 4? Yes___ No___

[Fill in either lines 14-17 or lines 18-20:]

14. Current assets.....$_____

15. Current liabilities.....$_____

16. Net working capital subtract line 15 from line 14.....$_____

17. Is line 16 at least equal to the sum of line 3 plus 6 times the sum of line 4? Yes___ No___

18. Current bond rating of most recent bond issue?_____

19. Name of rating service_____

20. Date of maturity of bond_____

21. Have financial statements for the latest financial reporting year been filed with the SEC, the Energy Information Administration, or the Rural Utilities Service? Yes___ No___

[If "no," please attach a report from an independent certified public accountant certifying that there are no material differences between the data reported in lines 6-20 above and the financial statements for the latest financial reporting year.]

[For Alternatives I and II complete the certification with this statement.]

I hereby certify that the wording of this letter is identical to the wording specified in Appendix I of ~~this chapter~~9VAC25-590 as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

APPENDIX II. GUARANTEE.

[NOTE: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

Guarantee made this [date] by [name of guaranteeing entity], a business entity organized under the laws of the state of [insert name of state], herein referred to as guarantor, to the State Water Control Board of the Commonwealth of Virginia and to any and all third parties, and obligees, on behalf of [owner or operator] of [business address].

Recitals.

(1) Guarantor meets or exceeds the financial test criteria of 9VAC25-590-60 B or C and D of Virginia Petroleum Underground Storage Tank Financial Responsibility Requirements, 9VAC25-590, and agrees to comply with the requirements for guarantors as specified in 9VAC25-590-70 B.

(2) [Owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 9VAC25-580-70 (Underground Storage Tanks: Technical Standards and Corrective Action Requirements), and the name and address of the facility]. This guarantee satisfies this chapter's requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" [if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] corrective action per occurrence, [insert dollar amount] third party liability per occurrence, and [insert dollar amount] annual aggregate.

(3) [Insert appropriate phrase: "On behalf of our subsidiary" (if guarantor is corporate parent of the owner or operator); "On behalf of our affiliate" (if guarantor is a related firm of the owner or operator); or "Incident to our business relationship with" (if guarantor is providing the guarantee as an incident to a substantial business relationship with owner or operator)] [owner or operator], guarantor guarantees to the State Water Control Board and to any and all third parties that:

In the event that [owner or operator] fails to provide alternate coverage within 60 days after receipt of a notice of cancellation of this guarantee and the State Water Control Board has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the State Water Control Board, shall pay the funds to the State Water Control Board in accordance with the provisions of 9VAC25-590-170, in an amount not to exceed the coverage limits specified above.

In the event that the State Water Control Board determines that [owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 9VAC25-580-230 through 9VAC25-580-300 (Underground Storage Tanks: Technical Standards and Corrective Action Requirements), the guarantor upon written instructions from the State Water Control

Board shall pay the funds to the State Water Control Board in accordance with the provisions of 9VAC25-590-170, in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the State Water Control Board, shall pay the funds to the State Water Control Board in accordance with the provisions of 9VAC25-590-170 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

(4) Guarantor agrees that if, at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet the financial test criteria of 9VAC25-590-60 B or C and D, guarantor shall send within 120 days of such failure, by certified mail, notice to [owner or operator] and the State Water Control Board. The guarantee will terminate 120 days from the date of receipt of the notice by [owner or operator] and the State Water Control Board, as evidenced by the return receipts.

(5) Guarantor agrees to notify [owner or operator] and the State Water Control Board by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

(6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 9VAC25-580 and 9VAC25-590.

(7) Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] ~~shall~~must comply with the applicable financial responsibility requirements of 9VAC25-590 for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator] and the State Water Control Board, such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator] and the State Water Control Board, as evidenced by the return receipt.

(8) The guarantor's obligation does not apply to any of the following:

(a) Any obligation of [insert owner or operator] under a workers compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily damage or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 9VAC25-590-40.

(9) Guarantor expressly waives notice of acceptance of this guarantee by the State Water Control Board, by any or all third parties, or by [owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in Appendix II of 9VAC25-590 as such regulations were constituted on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

APPENDIX III. ENDORSEMENT.

[NOTE: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

Name: [name of each covered location]

Address: [address of each covered location]

Policy number:

Period of coverage: [current policy period]

Name of Insurer:

Address of Insurer:

Name of insured:

Address of insured:

Endorsement:

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering the following underground storage tanks in connection with the insured's obligation to demonstrate financial responsibility under the Virginia Petroleum Underground Storage Tank Financial Requirements Regulation (9VAC25-590).

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 9VAC25-580-70 (Underground Storage Tanks; Technical Standards and Corrective Action Requirements), and the name and address of the facility.]

for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases";] in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; [if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the corrective action "each occurrence" and third party "each occurrence" and "annual aggregate" limits of the insurer's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs, which are subject to a separate limit under the policy. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions inconsistent with subsections (a) through (d) for occurrence policies and (a) through (e) for claims-made policies of this paragraph 2 are hereby amended to conform with subsections (a) through (e):

a. Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy to which this endorsement is attached.

b. The insurer is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the insurer. This

provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 9VAC25-590-60 through 9VAC25-590-110.

c. Whenever requested by the State Water Control Board, the insurer agrees to furnish to State Water Control Board a signed duplicate original of the policy and all endorsements.

d. Cancellation or any other termination of the insurance by the insurer, except for nonpayment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured and the State Water Control Board. Cancellation for nonpayment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of 15 days after a copy of such written notice is received by the insured and the State Water Control Board.

[Insert for claims-made policies:]

e. The insurance covers claims otherwise covered by the policy that are reported to the insurer within six months of the effective date of cancellation or nonrenewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.

I hereby certify that the wording of this endorsement is in no respect less favorable than the coverage specified in APPENDIX III of 9VAC25-590. I further certify that the insurer is licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in the Commonwealth of Virginia.

[Signature of authorized representative of insurer]

[Name of person signing]

[Title of person signing], authorized representative of [name of insurer]

[Address of representative]

APPENDIX IV. CERTIFICATE OF INSURANCE.

[NOTE: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

Name: [name of each covered location]

Address: [address of each covered location]

Policy number:

Endorsement (if applicable):

Period of coverage: [current policy period]

Name of insurer:

Address of insurer:

Name of insured:

Address of insured:

Certification:

1. [Name of insurer], The insurer, as identified above, hereby certifies that it has issued liability insurance covering the following underground storage tank(s) in connection with the insured's obligation to demonstrate financial responsibility under the Virginia Petroleum Underground Storage Tank Financial Requirements Regulation (9VAC25-590).

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 9VAC25-590-70 (Underground Storage Tanks; Technical Standards and Corrective Action Requirements), and the name and address of the facility.]

for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage] caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; [if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the corrective action "each occurrence" and third party "each occurrence" and "annual aggregate" limits of the insurer's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs, which are subject to a separate limit under the policy. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The insurer further certifies the following with respect to the insurance described in paragraph 1:

a. Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy to which this certificate applies.

b. The insurer is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third party, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 9VAC25-590-60 through 9VAC25-590-110.

c. Whenever requested by the State Water Control Board, the insurer agrees to furnish to the State Water Control Board a signed duplicate original of the policy and all endorsements.

d. Cancellation or any other termination of the insurance by the insurer, except for nonpayment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured and the State Water Control Board. Cancellation for nonpayment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of 15 days after a copy of such written notice is received by the insured and the State Water Control Board.

[Insert for claims-made policies]

e. The insurance covers claims otherwise covered by the policy that are reported to the insurer within six months of the effective date of cancellation or nonrenewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.

I hereby certify that the wording of this instrument is identical to the wording in APPENDIX IV of 9VAC25-590 and that the insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or approved surplus lines insurer, in the Commonwealth of Virginia.

[Signature of authorized representative of insurer]

[Type name] [Title], authorized representative of name of insurer

[Address of representative]

APPENDIX V. PAYMENT AND PERFORMANCE BOND.

[NOTE: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

Date bond executed:

Period of coverage:

Principal: [legal name and business address of owner or operator.]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation (if applicable):

Surety(ies): [name(s) and business address(es)]

Scope of coverage: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 9VAC25-580-70 (Underground Storage Tanks: Technical Standards and Corrective Action Requirements), and the name and address of the facility. List the coverage guaranteed by the bond: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" "arising from operating the underground storage tank"].

Penal sums of bond:

Corrective Action (per occurrence) $.....

Third Party Liability (per occurrence) $.....

Annual aggregate $.....

Surety's bond number:

Know all Persons by These Presents, that we, the principal and Surety(ies), hereto are firmly bound to the State Water Control Board of the Commonwealth of Virginia, in the above penal sums for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sums jointly and severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each surety binds itself, jointly and severally with the Principal, for the payment of such sums only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sums.

Whereas said Principal is required under § 62.1-44.34:8 through 62.1-44.34:12 of the Code of Virginia, Subtitle I of the ~~Resource Conservation and Recovery Act (RCRA)~~Solid Waste Disposal Act of 1976, as amended, and under the Virginia Petroleum Underground Storage Tank Financial Requirements Regulation (9VAC25-590), to provide financial assurance for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases";] [if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tanks identified above;

Now, therefore, the conditions of the obligation are such that if the Principal shall faithfully ["take corrective action, in accordance with Part VI of 9VAC25-580-230 through 9VAC25-580-300. (Underground Storage Tanks: Technical Standards and Corrective Action Requirements) and the State Water Control Board's instructions for," and/or "compensate injured third parties for bodily injury and property damage caused by" either "sudden" and/or "nonsudden" or "sudden and nonsudden"] accidental releases arising from operating the tank(s) identified above, or if the Principal shall provide alternate financial assurance, as specified in 9VAC25-

590, within 120 days after the date the notice of cancellation is received by the Principal from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

Such obligation does not apply to any of the following:

(a) Any obligation of [insert owner or operator] under a workers compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 9VAC25-590-40.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the State Water Control Board that the Principal has failed to ["take corrective action, in accordance with Part VI of 9VAC25-580-230 through 25-580-300 and the State Water Control Board's instructions," and/or "compensate injured third parties"] as guaranteed by this bond, the Surety(ies) shall either perform ["corrective action in, accordance with 9VAC25-580 and the board's instructions," and/or "third party liability compensation"] or pay the funds in an amount up to the annual aggregate penal sum to the State Water Control Board as directed by the State Water Control Board under 9VAC25-590-170. The State Water Control Board in its sole discretion may elect to require the surety to pay the funds or to take corrective action and compensate third parties or any combination up to the annual aggregate penal sum.

Upon notification by the State Water Control Board that the Principal has failed to provide alternate financial assurance within 60 days after the date the notice of cancellation is received by the Principal from the Surety(ies) and that the State Water Control Board has determined or suspects that a release has occurred, the Surety(ies) shall pay the funds in an amount not exceeding the annual aggregate penal sum to the State Water Control Board as directed by the State Water Control Board under 9VAC25-590-170.

The Surety(ies) submit to the jurisdiction of the Circuit Court of the City of Richmond to adjudicate any claim against it(them) by the State Water Control Board and waive any objection to venue in that court. Interest shall accrue at the judgment rate of interest on the amount due beginning seven days after the date of notification by the State Water Control Board. In the event the State Water Control Board shall institute legal action to compel performance by the Surety under this agreement, the Surety shall be liable for all costs and legal fees incurred by the board to enforce this agreement.

The Surety(ies) hereby waive(s) notification of amendments to applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond. The Surety(ies) hereby agree(s) that it(they) has been notified of all material facts regarding this contract of suretyship and waive(s) any defense founded in concealment of material facts. The Surety(ies) represents that the person executing this agreement has full authority to execute the agreement. Surety(ies) hereby waive(s) any right to notice of breach or default of the Principal. The State Water Control Board may enforce this agreement against the Surety(ies) without bringing suit against the principal. The State Water Control Board shall not be required to exhaust the assets of the Principal before demanding performance or funding of the trust fund by the Surety. No lawful act of the State Water Control Board, including without limitation any extension of time to the Principal, shall serve to release any surety, whether or not that act may be construed to alter or vary this agreement. Release of

one co-surety shall not act as the release of another. This agreement shall be construed to effect its purpose to provide remedial action for petroleum releases and to provide compensation for third parties injured by such releases.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the annual aggregate to the penal sum shown on the face of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said annual aggregate penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the principal and the State Water Control Board, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the principal and the State Water Control Board, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies).

In Witness Thereof, the Principal and Surety(ies) have executed this Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in Appendix V of 9VAC25-590 as such regulations were constituted on the date this bond was executed.

PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate seal]

CORPORATE SURETY(IES)

[Name and address]

State of Incorporation:

Liability limit.....$...

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for surety above.]

Bond premium:.....$...

APPENDIX VI. IRREVOCABLE STANDBY LETTER OF CREDIT.

[NOTE: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

[Name and address of issuing institution]

[Name and address of the Executive Director of the State Water Control Board of the Commonwealth of Virginia and Director(s) of other state implementing agency(ies)]

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No.... in your favor, at the request and for the account of [owner or operator name] of [address] up to the aggregate amount of in words U.S. dollars ($[insert dollar amount]), available upon presentation [insert, if more than one director of a state implementing agency is a beneficiary, "by any one of you"] of

(1) your sight draft, bearing reference to this letter of credit, No... and

(2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of 62.1-44.34:8 through 62.1-44.34:12 of the Code of Virginia and Subtitle I of the ~~Resource Conservation and Recovery~~ Solid Waste Disposal Act of 1976, as amended."

This letter of credit may be drawn on to cover [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the underground storage tank(s) identified below in the amount of in words $[insert dollar amount] corrective action per occurrence, [in words] $[insert dollar amount] third party liability per occurrence, and [in words] $[insert dollar amount] annual aggregate:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 9VAC25-580-70 (Underground Storage Tanks: Technical Standards and Corrective Action Requirements), and the name and address of the facility.]

The letter of credit may not be drawn on to cover any of the following:

(a) Any obligation, of [insert owner or operator] under a workers compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 9VAC25-590-40 (Virginia Petroleum Underground Storage Tank Financial Responsibility Requirements).

This letter of credit is effective as of [date] and shall expire on [date], but such expiration date shall be automatically extended for a period of [at least the length of the original term] on [expiration date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify [owner or operator] and the State Water Control Board by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event that [owner or operator] and the State Water Control Board are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by [owner or operator] and the State Water Control Board, as shown on the signed return receipts.

Partial draws are permitted under this Irrevocable Standby Letter of Credit.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall pay to you the amount of the draft promptly and directly in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in Appendix VI of 9VAC25-590 as such regulations were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution]

[Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"].

APPENDIX VII. TRUST AGREEMENT.

[NOTE: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

Trust agreement, the "Agreement," entered into as of [date] by and between [name of the owner or operator], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "Incorporated in the state of..... " or "a national bank"], the "Trustee."

Whereas, the State Water Control Board of the Commonwealth of Virginia has established certain regulations applicable to the Grantor, requiring that an owner or operator of an underground storage tank shall provide assurance that funds will be available when needed for corrective action and third party compensation for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from the operation of the underground storage tank. The attached Schedule A lists the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located that are covered by the trust agreement.

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee;

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

(c) "9VAC25-590" is the Petroleum Underground Storage Tank Financial Requirements Regulation promulgated by the State Water Control Board for the Commonwealth of Virginia.

Section 2. Establishment of Fund.

The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the State Water Control Board of the Commonwealth of Virginia. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. Payments made by the provider of financial assurance pursuant to the State Water Control Board's instruction are transferred to the Trustee and are referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor as provider of financial assurance, any payments necessary to discharge any liability of the Grantor established by the State Water Control Board.

Section 3. Payment for ["Corrective Action" and/or "Third Party Liability Claims"].

The Trustee shall make payments from the Fund as the State Water Control Board shall direct, in writing, to provide for the payment of the costs of [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage] caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" arising from operating the tanks covered by this Agreement.

The Fund may not be drawn upon to cover any of the following:

(a) Any obligation of [insert owner or operator] under a workers compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 9VAC25-590-40.

The Trustee shall reimburse the Grantor, or other persons as specified by the State Water Control Board, from the Fund for corrective action expenditures and/or third party liability claims in such amounts as the State Water Control Board shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the State Water Control Board specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined here.

Section 4. Payments Comprising the Fund.

Payments made to the Trustee for the Fund shall consist of cash and securities acceptable to the Trustee.

Section 5. Trustee Management.

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims, except that:

(i) Securities or other obligations of the Grantor, or any other owner or operator of the tanks, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 USC § 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government;

(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 6. Commingling and Investment.

The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 USC § 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 7. Express Powers of Trustee.

Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 8. Taxes and Expenses.

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 9. Advice of Counsel.

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 10. Trustee Compensation.

The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 11. Successor Trustee.

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in writing sent to the Grantor and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section ~~9.~~8.

Section 12. Instructions to the Trustee.

All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Schedule B or such other designees as the Grantor may designate by amendment to Schedule B. The trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests and instructions by the State Water Control Board to the Trustee shall be in writing, signed by the Executive Director of the State Water Control Board, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to

act on behalf of the Grantor or the State Water Control Board hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the State Water Control Board, except as provided for herein.

Section 13. Amendment of Agreement.

This Agreement may be amended by an instrument in writing executed by the Grantor and the Trustee, or by the Trustee and the State Water Control Board if the Grantor ceases to exist.

Section 14. Irrevocability and Termination.

Subject to the right of the parties to amend this Agreement as provided in Section ~~14,~~13, this Trust shall be irrevocable and shall continue until terminated at the written direction of the Grantor and the Trustee, or by the Trustee and the State Water Control Board, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 15. Immunity and Indemnification.

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the State Water Control Board issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 16. Choice of Law.

This Agreement shall be administered, construed, and enforced according to the laws of the Commonwealth of Virginia, or the Comptroller of the Currency in the case of National Association banks.

Section 17. Interpretation.

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals (if applicable) to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in Appendix VII of 9VAC25-590 as such regulations were constituted on the date written above.

[Signature of Grantor]

[Name of the Grantor]

[Title]

Attest:

[Signature of Trustee]

[Name of the Trustee]

[Title]

[Seal]

[Signature of Witness]

[Name of Witness]

[Title]

[Seal]

APPENDIX VIII. CERTIFICATION OF ACKNOWLEDGMENT.

[Note: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

State of....

County of....

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]

[Name of Notary Public]

My Commission expires:

APPENDIX IX. CERTIFICATION OF FINANCIAL RESPONSIBILITY.

[Note: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

[Owner or operator] hereby certifies that it is in compliance with the requirements of 9VAC25-590 (Petroleum Underground Storage Tank Financial Requirements Regulation).

The financial assurance mechanism[s] used to demonstrate financial responsibility under 9VAC25-590 is [are] as follows:

Indicate type of Mechanism (Note: the Fund may not be used as the sole mechanism):

____ Virginia Petroleum Storage Tank Fund ("the Fund")

____ Letter from Chief Financial Officer

____ Guarantee

____ Insurance Endorsement or Certificate

____ Letter of Credit

____ Certificate of Deposit

____ Surety Bond

____ Trust Fund

Name of Issuer (for mechanism other than the Fund): _____

Mechanism Number (if applicable):_____

Demonstration amount for mechanism other than the Fund:

$_____ corrective action per occurrence

$_____ third party liability per occurrence

$_____ annual aggregate

The Virginia Petroleum Storage Tank Fund demonstrates amounts for corrective action per occurrence, third party liability per occurrence, and annual aggregate, in excess of the amounts demonstrated by the "mechanism other than the Fund" up to one million dollars. In the event that the owner/operator owns/operates in excess of 100 USTs in the Commonwealth of Virginia, the Fund demonstrates up to an annual aggregate of two million dollars.

Mechanisms' effective period of coverage: _____ to _____

(If you are using either the Financial Test or the Guarantee, please indicate the current financial reporting year, e.g., 1/01/02—12/31/02, if you use the calendar year as your financial reporting year, or other dates if you operate under a different fiscal year. If you are using a Letter of Credit, a Certificate of Deposit, a Surety Bond, or an Insurance Policy, please indicate the annually renewable term of the applicable mechanism.)

Do(es) mechanism(s) cover(s): taking corrective action and/or compensating third parties for bodily injury and property damage caused by either sudden accidental releases or nonsudden accidental releases or accidental releases? ____ Yes ____ No

If "No," specify in the following space the items the mechanism covers:

[Signature of owner or operator]

[Name of owner or operator] [Title] [Date]

[Signature of notary]

[Name of notary] [Date] My Commission expires:

APPENDIX X. CERTIFICATION OF VALID CLAIM.

[Note: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

The undersigned, as principals and as legal representatives of [insert owner or operator] and [insert name and address of third party claimant], hereby certify that the claim of bodily injury [and/or] property damage caused by an accidental release arising from operating [owner's or operator's] underground storage tank should be paid in the amount of $[.....]

[Signatures] [Signature(s)]

Owner or Operator Claimant(s)

Attorney for Attorney(s) for

Owner or Operator Claimant(s)

(Notary) Date (Notary) Date

APPENDIX XI. LETTER FROM CHIEF FINANCIAL OFFICER (SHORT FORM).

[Note: This Appendix may only be used by owners or operators who do not own or operate hazardous waste facilities, or underground injection control wells.]

[Note: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

I am the chief financial officer of [insert: name and address of the owner or operator or guarantor]. This letter is in support of the use of [insert "the financial test of self-insurance," and/or "Guarantee"] to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert "sudden accidental releases" ~~and/or~~or "nonsudden accidental releases" or "accidental releases"] in the amount of at least $[insert dollar amount] corrective action per occurrence, $[insert dollar amount] third party liability per occurrence, and $[insert dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this financial test by this [insert: "owner or operator," and/or "guarantor"]: [List for each facility the name and address of the facility where tanks assured by this financial test are located, and whether tanks are assured by this financial test. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to 9VAC25-580-70 (Underground Storage Tanks: Technical Standards and Corrective Action Requirements)].

I am not required to demonstrate evidence of financial responsibility for any other EPA regulation or state programs authorized by EPA.

This [insert: "owner or operator," or "guarantor"] has not received an adverse opinion, a disclaimer of opinion, or a "going concern" qualification from an independent auditor on the financial statements for the latest completed financial reporting year.

[Fill in the information below to demonstrate compliance with the financial test requirements.]

1. Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee...$_____

2. Amount of annual aboveground storage tank (AST) aggregate coverage being assured by a financial test and/or guarantee...$_____

3. Total UST/AST financial responsibility obligations assured by a financial test and/or guarantee (sum of lines 1 and 2)...$_____

4. Total tangible assets...$_____

5. Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line or add that amount to line 6]...$_____

6. Tangible net worth [subtract line 5 from line 4]...$_____

7. Is line 4 at least equal to line 3 above? Yes... No...

8. Have financial statements for the latest financial reporting year been filed with the Securities and Exchange Commission? Yes... No...

9. Have financial statements for the latest financial reporting year been filed with the Energy Information Administration? Yes... No...

10. Have financial statements for the latest financial reporting year been filed with the Rural Utilities Service? Yes... No...

11. Has financial information been provided to Dun and Bradstreet, and has Dun and Bradstreet provided a financial strength rating at least equal to the amount of annual UST aggregate coverage being assured according to the table below?

Annual Aggregate Requirement	Dun and Bradstreet Rating
$20,000	EE ($20,000 to $34,999)
$40,000	DC ($50,000 to $74,999)
$80,000	CB ($125,000 to $199,999)
$150,000	BB ($200,000 to $299,999)
$200,000	BB ($200,000 to $299,999)
$300,000	BA ($300,000 to $499,999)
$500,000	1A ($500,000 to $749,999)
$750,000	2A ($750,000 to $999,999)
$1,000,000	3A ($1,000,000 to $9,999,999)

[Answer "Yes" only if BOTH criteria have been met.] Yes... No...

12. If you did not answer yes to one of lines 8 through 11, please attach a report from a certified public accountant certifying that there are no material differences between the data reported in lines 4 through 7 above and the financial statements for the latest financial reporting year.

I hereby certify that the wording of this letter is identical to the wording specified in Appendix XI of this chapter as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

APPENDIX XII. CERTIFICATE OF GROUP SELF-INSURANCE POOL MEMBERSHIP.

[NOTE: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

Name: [name of each covered location]

Address: [address of each covered location]

Policy number:

Endorsement (if applicable):

Period of coverage: [current policy period]

Name of Group self-insurance pool:

Address of Group self-insurance pool:

Name of Member:

Address of Member:

Certification:

1. [Name of Group Self-Insurance Pool], the group self-insurance pool, "Pool," as identified above, hereby certifies that it has entered into a Membership Agreement (Agreement) with the member to provide liability coverage for the following underground storage tank(s) in connection with the insured's obligation to demonstrate financial responsibility under the Virginia Petroleum Underground Storage Tank Financial Requirements Regulation (9VAC25-590) for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by either sudden accidental releases or nonsudden accidental releases; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the Pool Plan (Plan) and Agreement; [if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability of the Pool are [insert the dollar amount] corrective action per occurrence and [insert dollar amount] third party liability per occurrence and [insert dollar amount] annual aggregate. [If the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs, which are subject to a separate limit under the Plan or Agreement. This coverage is provided under the Plan dated [insert date] and the Agreement entered into between [name of member] and [name of Pool]. The effective date of said Agreement is [date].

2. The Pool further certifies the following with respect to the coverage described in paragraph 1:

a. Bankruptcy or insolvency of the member shall not relieve the Pool of its obligations under the policy to which this certificate applies.

b. The Pool is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third party, with a right of reimbursement by the member for any such payment made by the Pool. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 9VAC25-590-60 through 9VAC25-590-110.

c. Whenever requested by the State Water Control Board, the Pool agrees to furnish to the State Water Control Board a signed duplicate original of the Agreement and Plan and all endorsements.

d. Cancellation or any other termination of the coverage by the Pool, except for nonpayment of premium or misrepresentation by the member, will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the member and the State Water Control Board. Cancellation for nonpayment of premium or misrepresentation by the member will be effective only upon written notice and only after expiration of a minimum of 15 days after a copy of such written notice is received by the member and the State Water Control Board.

e. The Pool covers claims otherwise covered by the Agreement and Plan that are reported to the Pool within six months of the effective date of cancellation or nonrenewal of the Agreement except where the new or renewed Agreement has the same retroactive date or a retroactive date earlier than that of the prior Agreement and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such Agreement renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the Agreement and Plan.

I hereby certify that the wording of this instrument is identical to the wording in APPENDIX XII of 9VAC25-590 and that the Pool is licensed by the Commonwealth of Virginia's State Corporation Commission pursuant to 14VAC5-380.

[Signature of Authorized Representative of Pool]

[Type name], Authorized Representative of [name of Pool]

[Address of representative]

APPENDIX XIII. ASSIGNMENT OF CERTIFICATE OF DEPOSIT ACCOUNT.

[Note: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

[Name and Address of Bank]

City _____ _____, 20__

___ FOR VALUE RECEIVED, the undersigned assigns all right, title, and interest to the State Water Control Board, Commonwealth of Virginia, and its successors and assigns the State Water Control Board the principal amount of the instrument, including all moneys deposited now or in the future to that instrument, indicated below:

__If checked here, this assignment includes all interest now and hereafter accrued.

Certificate of Deposit Account No. _____

This assignment is given as security to the State Water Control Board in the amount of _____ Dollars [$_____].

Continuing Assignment. This assignment shall continue to remain in effect for all subsequent terms of the automatically renewable certificate of deposit.

Assignment of Document. The undersigned also assigns any certificate or other document evidencing ownership to the State Water Control Board.

Additional Security. This assignment shall secure the payment of any financial obligation of the [name of owner/operator] to the State Water Control Board for "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" arising from operating the underground storage tank(s) identified below in the amount of [in words] $[insert dollar amount] corrective action per occurrence, [in words] $[insert dollar amount] third party liability per occurrence, and [in words] $[insert dollar amount] annual aggregate:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 9VAC25-580-70 ("Notification requirements" of the Underground Storage Tanks: Technical Standards and Corrective Action Requirements), and the name and address of the facility.]

The certificate of deposit may not be drawn on to cover any of the following:

(a) Any obligation, of [insert owner or operator] under a workers compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 9VAC25-590-40 ("Amount and scope of financial responsibility requirement" of the Virginia Petroleum Underground Storage Tank Financial Responsibility Requirements).

Application of Funds. The undersigned agrees that all or any part of the funds of the indicated account or instrument may be applied to the payment of any and all financial responsibility obligations of [name of owner/operator] to the State Water Control Board for "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" arising from operating the underground storage tank(s) at the [facility name and address]. The undersigned authorizes the State Water Control Board to withdraw any principal amount on deposit in the indicated account or instrument including any interest, if indicated, and to apply it in the State Water Control Board's discretion to fund "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" arising from operating the underground storage tank(s) at the [facility name] or in the event of [owner or operator's] failure to comply with the Petroleum Underground Storage Tank Financial Responsibility Requirements, 9VAC25-590. The undersigned agrees that the State Water Control Board may withdraw any principal and/or interest from the indicated account or instrument without demand or notice. [The undersigned] agrees to assume any and all loss of penalty due to federal regulations concerning the early withdrawal of funds. Any partial withdrawal of principal or interest shall not release this assignment.

The party or parties to this Assignment set their hand or seals, or if corporate, has caused this assignment to be signed in its corporate name by its duly authorized officers and its seal to be affixed by authority of its Board of Directors the day and year above written.

The party or parties to this Assignment also certify that the wording of this Assignment is identical to the wording specified in Appendix XIII of 9VAC25-590 as such regulations were constituted on the date this Assignment was executed.

SEAL

_____

[Owner/Operator signature]

_____ _____

[print Owner or Operator's name] [Date]

SEAL

_____

[Owner/Operator signature]

_____ _____

[print Owner or Operator's name] [Date]

THE FOLLOWING SECTION IS TO BE COMPLETED BY THE BRANCH OR LENDING OFFICE:

The signature(s) as shown above compare correctly with the name(s) as shown on record as owner(s) of the Certificate of Deposit indicated above. The above assignment has been properly recorded by placing a hold in the amount of $ _____ for the benefit of the State Water Control Board, Commonwealth of Virginia.

__ If checked here, the accrued interest on the Certificate of Deposit indicated above has been maintained to capitalize versus being mailed by check or transferred to a deposit account.

_____ _____

[Signature] [Date]

_____

[print name]

[Title]

Mailing address of branch or lending office

Area code and telephone number of branch or lending office

FORMS (9VAC25-590)

Corporate Ability to Pay Application (rev. 7/02).

Individual Ability to Pay Claim (rev. 7/02).

Partnership Ability to Pay Application (rev 7/02)

Insurance Certification (rev. 7/02).

Ability to Pay Application Instructions (rev. 7/02).

Ability to Pay Bankruptcy Affidavit (Tank Program) (rev. 7/02).

Notice of Intent to Seek Reconsideration (rev. 8/02).

Reconsideration Claim Form (rev. 8/02).

Form 1-Virginia Petroleum Storage Tank Fund Reimbursement Application (1/1/98).

Form 2-Virginia Petroleum Storage Tank Fund Payment Assignment Form and Substitute IRS Form W-9 (rev. 2/99).

Form 3-Virginia Petroleum Storage Tank Fund Multiple Owners Payment Assignment Form (1/1/98).

AAF Cost Worksheet (1/1/98).

Bid Cost Worksheet (rev. 1/98).

Activity Authorization Form for 198 UCRs (rev. 11/02).

Activity Authorization Form for 395 UCRs (rev. 1/00).

Activity Authorization Form for 1289 UCRs (rev. 1/00).

Bid Summary Form (1/1/98).

Bid Comparison Form (1/1/98).

Bid Work Progress Form (1/1/98).

Site Information Form (7/98).

Certification of AST Facility Storage Capacity for Access to the Virginia Petroleum Storage Tank Fund (7/98).

Certification of Annual Gallonage (7/98).

Estate Ability to Pay Application (7/98).

Virginia Petroleum Storage Tank Fund Substitute IRS Form W-9 (Rev. 2/99).

Reconsideration Claim Form Worksheet (Rev. 8/02).

DOCUMENTS INCORPORATED BY REFERENCE (9VAC25-590)

Circular 570, U.S. Dept. of Treasury.

The following chart identifies all proposed changes to the regulations.

9 VAC 25-580

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale (Bold text indicates federal regulatory citation that corresponds to state regulation that is being amended)
Part 1		Title	Title changed to "Definitions, Applicability and Installation Requirements for Partially Excluded UST Systems." This change was made to be consistent with the title found in 40 CFR 280 (hereafter referred to as"**§ 280").**
10		Definitions	Additional definitions have been added to the Regulation, including definitions for the terms "airport hydrant fuel distribution system", "containment sump", "dispenser", "dispenser system", "field-constructed tank", and "replaced." Definitions of "motor fuel", "release detection", "repair", "secondary containment" and "under-dispenser containment" were modified to be consistent with definitions found in 40 CFR 280.12 and 280.250. Definitions for "community water system", "existing community water system", "motor fuel dispenser system", "potable drinking water well", "public water system" and "replace" were removed from the VA UST Regulation. These changes were made to be consistent with defined terms found in **§280.12 and 280.250.**
20 A	20 A 2	Applicability	Last sentence in 20 A was moved and is now found in 20 A 2.
	20 A 1 a, b and c and 20 A 2	Applicability	New language added to reflect EPA requirements for previously deferred airport hydrant fuel distribution, field constructed tank and emergency generator systems. Airport hydrant fuel systems and field constructed tanks are addressed in Part X. EPA removed the deferral for UST systems storing fuel for use by emergency power generators from release detection requirements. Language was added to 20 A 1 b to clarify that the emergency power generators installed before September 15, 2010, must have met all requirements for USTs except those contained in Part IV (release detection). The EPA changes will require owners and operators to perform release detection pursuant to Part IV within three years of the effective date of the VA UST Regulation.

			20 A 1 c has been added to reflect EPA's changes to require all emergency power generators installed on or after the effective date of the previous version of the state regulation (September 15, 2010), to meet all applicable requirements of the chapter (including release detection requirements contained in Part IV). The VA UST Regulation is being amended to reflect the changes found in **§ 280.10(a)(1)(i)-(iii) and (a)(2).**
20 B		Applicability	Added the title "Exclusions" to match EPA language found in **§ 280.10(b).** Also, updated the federal statutory citation in B 1.
20 C 1- 5	20 C 1- 4	Applicability	Deleted the title "Deferrals" and replaced with "Partial Exclusions" to match EPA language. USTs that were previously categorized as "deferrals" are now "partially excluded." Updated to meet EPA requirements for previously deferred wastewater treatment tanks systems; aboveground storage tanks associated with airport hydrant fuel distribution systems and field constructed systems; and emergency generator systems at nuclear facilities. Deleted 4 and 5 and renumbered to reflect EPA changes to separately regulate airport hydrant fuel distribution systems and UST systems with field constructed tanks. (Now found in Part X). These changes reflect the changes made by EPA in **§ 280.10(c).**
20 D		Applicability	Deleted subsection D to match EPA language. The federal regulation no longer uses the category "deferrals" and EPA deleted (d) of **§ 280.10.**
30	Interim prohibition for deferred UST systems	Installation requirements for partially excluded UST systems	Section title amended to "Installation requirements for partially excluded UST systems" and language reworded to reflect EPA change that certain systems that were previously deferred are now partially excluded but still must meet certain installation requirements. Per EPA additions, added industry codes of practice that can be used as guidance for complying with this section. These changes reflect the changes made by EPA in **§280.11.**
40		Permitting and Inspection requirements	References to new sections 9VAC25-580-380 and 390 regarding airport hydrant fuel distribution systems and field constructed tanks were added to this section for clarity.
50	50 4 b	Performance standards	Moved the language contained in the first 3

			paragraphs of 50 to 50 4 b because 50 4 b is a more suitable location to identify building code requirements within this section.
50		Performance standards--Secondary containment.	New language added to address EPA's requirements that USTs and certain piping be secondarily contained, as reflected in **§280.20**. (The VA UST Regulation's effective date for secondary containment requirements was September 15, 2010, so this date is being used.)
50		Notes	Per EPA changes, throughout §50, updated industry codes of practice and titles of codes of practice and removed codes of practice that no longer exist. **§280.20.**
50 1 c		Performance Standards	Updated language to reflect new technology or industry standard changes per EPA changes to **§280.20(a)(3).**
50 2 a		Performance Standards	. Deleted "fiberglass-reinforced plastic" and inserted "a non-corrodible material" per EPA changes to **§280.20(b)(1).**
50 3 a		Spill and overfill prevention equipment	Added "and c" to incorporate new subsection 3 c into the exceptions to overfill equipment requirements per EPA changes to **§280.20(c)(1).**
50 3 a (2) (c)		Spill and overfill prevention equipment	Clarification adding "transfer" before "operator" to conform to EPA changes to **§280.20(c)(1)(ii)(C).**
	50 3 c	Spill and overfill prevention equipment	New language added to reflect EPA requirement to prohibit the installation or replacement of flow restrictors (ball floats) as overfill devices after the effective date. **§280.20(c)(3).**
	50 3 d	Spill and overfill prevention equipment	New language added to reflect EPA requirement for spill and overfill equipment to be periodically tested or inspected. **§280.20(c)(4).**
50 4		Installation	Clarification to use a defined term "UST system" in place of "All tanks and piping" to conform to EPA changes in **§ 280.20(d).**
50 4		Note	This note has been edited to remove a reference to NFPA 329 since it is no longer referenced in the VA UST Regulation.
50 5		Certification of installation	Clarification to remove the term "Certificate of use" and replace with the term "permit" to reflect the terminology used in the Virginia Uniform Statewide Building Code (13VAC5-63).
50 7		Secondary Containment	This section was deleted because additions were made in other sections of the VA UST Regulation to address and maintain consistency with EPA's updated Secondary Containment requirements.
	50 7	Secondary Containment/Dispenser systems	New language added to reflect EPA requirement that new dispenser systems be equipped with under-dispenser containment systems pursuant to **§280.20(f).**
60		Upgrading of existing UST systems	New language added to reflect EPA requirements that certain USTs be closed if they do not meet the new UST system

			performance standards or previous upgrade requirements pursuant to **§280.21.**
60 1		Upgrading of existing UST systems	Removed date to reflect EPA's clarification that the subsection applies to all existing UST systems. **§280.21(a).**
60 1 b		Upgrading of existing UST systems	Revised the upgrade requirements to include sections 2 thru 4 instead of 2 thru 5 as previously drafted. (5 addressed release detection). This comports with the federal regulation which does not include an upgrade requirement regarding release detection in section **§280.21(a)(2).**
60 2 a		Upgrade-internal lining	Language changed to reflect EPA's clarification that tanks upgraded in the past by internal lining must meet the requirements contained in 60 2 a. **§280.21(b)(1).**
60 2 a (2)		Upgrade-internal lining	New language added to reflect EPA's requirement that if the internal lining cannot perform or be repaired, the tank must be permanently closed. **§280.21(b)(1)(ii).**
60 2 b (1) – (4)		Upgrade-cathodic protection	New language added to reflect EPA's requirement that tanks upgraded by cathodic protection must meet the requirements of 50 1 b (2), (3) and (4) and the integrity of the tank must have been ensured by one of the listed methods. Additional revisions were made to reflect EPA's changes to address the cathodic protection requirements in the past tense since the compliance deadlines have passed. **§280.21(b)(2)(i)-(iv).**
60 2 c		Upgrade-internal lining and cathodic protection	Revised to reflect EPA's changes to address the internal lining combined with cathodic protection requirement in the past tense since the compliance deadlines have passed. **§280.21(b)(3).** Also, updated per EPA changes to reflect changes to codes and practices.
60 4		Upgrade-Spill and Overfill	Reflects EPA's change to remove the word "new" since the compliance deadlines have passed. **§280.21 (d).**
70 A		Notification	Reflects EPA's changes by rewording this section while retaining the original meaning. **§280.22(a).**
	70 B	Notification	This subsection was separated from subsection A and renumbered. It reflects EPA's changes by rewording this section while retaining the original meaning. This section also requires new owners to submit a change of ownership form. **§280.22 (b).**
70 B	70 C	Note	Renumbered. Replaced "notification form contained in Appendix I of this chapter" with "UST Notification form approved by the board" because Appendix I has been removed from the VA UST Regulation.
70 C		Notification	Reflects EPA's change to remove former §**280.22(d)** (formerly 70 C in the VA UST Regulation) because it is no longer applicable. Language in former section 70 C

			is being deleted. **§280.22.**
70 D		Notification	Addition of citation to the F R Regulation (9VAC25-590) for clarity and consistency. **§280.22(e)(3).**
70 F		Notification	Reflects EPA's change to add "when used on shipping tickets and invoices" to clarify current practice. **§280.22(g).**
	70 Note	Notification	This Note was contained in the former Appendix II to this Chapter. This information is required by 70 F. Revisions reflect EPA's changes to Appendix III to Part **§280.**
80		Note	Reflects EPA's change to add an additional code of practice to the Note associated with section A to be consistent with **§280.30.**
	82	Periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overfill prevention equipment	This section has been added in response to EPA adding new requirements to the federal regulation related to periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overfill prevention equipment. The requirements found in this section are the same as the requirements detailed in the federal UST regulations in **§280.35.**
	85	Periodic operation and maintenance walkthrough inspections	This section has been added to the VA UST Regulation in response to changes made to the federal UST regulations. The EPA added new requirements for periodic operation and maintenance walkthrough inspections. The requirements found in this section are the same as the requirements found in **§280.36**.
90		Operation and maintenance of corrosion protection	The federal UST regulation was revised to replace the term "steel" with "metal" to clarify that USTs may be manufactured with metals other than steel. Also, the federal UST regulation revised current language to clarify that corrosion prevention is required until the UST is permanently closed or undergoes a change in service. The VA UST Regulation is being amended to reflect these EPA changes. **§280.31.**
90 2 b		Note	EPA added additional codes of practice that may be used to comply with inspection criteria for cathodic protection. These additional codes of practice are being included in 9VAC25-580-90 2 and are identical to the note found in **§280.31(b)(2).**
	100 2 a and b	Compatibility	EPA added new requirements to the federal regulation requiring owners and operators to notify the board before switching to certain regulated substances. The owner/operator must demonstrate compatibility of the UST system to the substance. The requirements found in this subsection have been added in response and are the same as the EPA requirements. **§280.32(b)(1) and (2).**
	100 3	Compatibility	EPA added new requirements to the federal regulation requiring owners and operators to maintain records documenting compliance

			with the compatibility requirements. The requirements found in this subsection have been added in response and are the same as the EPA requirements. **§280.32(c).**
100		Note	EPA revised the codes of practice that may be used to comply with compatibility requirements found in section 100. The note in this section is identical to the note found in **§280.32.**
110 1		Note	EPA revised and added codes of practice that may be used to comply with requirements concerning repairs to UST systems found in section 110. The note in this section is identical to the note found in **§280.33(a).**
110 3		Repairs	This section has been revised in response to EPA replacing the term “fiberglass” with “non-corrodible” to clarify that any non-corrodible material is sufficient for pipes and fittings. **§280.33(c).**
110 4		Repairs	EPA added new requirements regarding repairs to secondary containment of tanks and piping under certain circumstances. The requirements found in this section have been added in response and are the same as the EPA requirements. **§280.33(d).**
	110 5	Repairs	Separated from paragraph 4 to enhance readability. 5 b amended to reflect change to include §160 9 pertaining to other methods of release detection. This change was made to be consistent with **§280.33(d)(2).**
110 4 & 5		Notes	EPA added codes of practice that may be used to comply with paragraphs 4 and 5. The note in this section is the same as the note found in **§280.33(d).**
	110 6	Repairs- cathodic protection	Renumbered to accommodate addition of subsection 110 5.
	110 7	Repairs to spill or overfill	EPA added new language regarding testing and inspection requirements following repairs to spill and overfill equipment. The requirements found in this section have been added in response and are the same as the EPA requirements. **§280.33(f).**
110 6	110 8	Repairs - recordkeeping	110 6 renumbered to 110 8 and revised to reflect EPA changes to clarify that repair records must be kept until the UST system is permanently closed or undergoes a change in service. **§280.33(g).**
120 1 a		Reporting	Changes reflect EPA change to require notification when any person assumes ownership of a UST system. **§280.34(a)(1).**
	120 1 b - d	Reporting	Changes reflect EPA language added to require notification prior to UST systems switching to certain regulated substances. Renumbering of subdivisions c-e. **§280.34(a)(2).**
	120 2 a - h	Recordkeeping	Revised to renumber the subdivisions and update the citations to reflect EPA changes in **§280.34(b)(2)-(9).**
	120 2 b	Recordkeeping	Changes reflect EPA language added to

			require owners and operators to maintain compatibility records. **§280.34(b)(3).**
	120 2 c	Recordkeeping	Revised to reflect that the applicable paragraph number in section 110 has changed from 6 to 8.
	120 2 d	Recordkeeping	Changes reflect EPA language added to require owners and operators to maintain compliance records related to spill and overfill and containment sumps for interstitial piping. **§280.34(b)(5).**
	120 2 e	Recordkeeping	Changes reflect EPA language added to require owners and operators to maintain records documenting periodic walkthrough inspections. **§280.34(b)(6).**
	120 2 f	Documentation	Minor wording changes to reflect EPA language. **§280.34(b)(7).**
	120 2 h	Documentation	Minor technical corrections. **§280.34(b)(9)**
125 B 2		Operator training	Deleted B 2 because this compliance date has passed. Also renumbered.
125 F 2		Operator training	Revised to reflect that the applicable paragraph number in section 120 has changed from e to h.
130 A		General requirements for all UST systems	Changes reflect EPA's changes to remove the terms "new and existing" to clarify that the requirements apply to all USTs. **§280.40(a).**
130 A 2		General requirements for all UST systems	Changes reflect EPA's changes to remove the terms "operated and maintained" from **§280.40(a)(2).**
	130 A 3 (a) to (e)	General requirements for all UST systems- testing	Changes reflect EPA language that includes an annual release detection equipment testing requirement and EPA language that expands and explains what the terms "operated and maintained" (formally contained in 130 A 2) means. EPA also added a code of practice (Note) that may be used to comply with this section. **§280.40(a)(3)(i)-(v).**
130 A 3	130 A 4	General requirements for all UST systems	Changed subdivision number due to addition of 130 A 3 and adopted EPA revisions in conformance with **§280.40(a)(4).**
130 B		General requirements for all UST systems	Amended to include a reference to the new Part X to conform to EPA changes in **§280.40(b).**
130 C		General requirements for all UST systems	Reflects EPA's change to remove former §**280.40(c)** (formerly 130 C in the VA UST Regulation) because it is no longer applicable. Language in former section 130 C was related to outdated phase-in information. **§280.40.**
130 D	130 C	General requirements for all UST systems- closure	130 D renumbered to 130 C in response to EPA removing language previously found in 280.40(c) (formerly 130 C in the VA UST Regulations). Reflects EPA language removing the term "existing" which is a reference to outdated information. This change also clarifies that previously deferred USTs that cannot apply a method of release detection that complies with the requirements of this section must complete

			closure after stated effective dates. **§280.40(c).**
140 A, B and C		Requirements for petroleum UST systems	140 A and B have been deleted. Secondary containment provisions are now included in other sections of the VA UST Regulation.
140 1		Requirements for petroleum UST systems - tank release detection	Changes reflect EPA addition of the phrase "for releases as follows:" **§280.41(a).**
140 1 a		Requirements for petroleum UST systems - tank release detection	Changes reflect EPA clarification that tanks installed before September 15, 2010 must be monitored for releases every 30 days in accordance with the VA UST Regulation. **§280.41(a)(1).**
	140 1 a (1)	Requirements for petroleum UST systems - tank release detection	This change renumbers subdivision (1) and removes 140 1 b which included references to outdated information. Changes reflect EPA changes to remove references to 1998 upgrades and phase in schedules associated with the original upgrade deadlines because the upgrade deadlines passed more than ten years ago. **§280.41(a)(1).**
	140 1 a (2)	Requirements for petroleum UST systems - tank release detection	This change renumbers subdivision c to (2). Changes reflect EPA clarification as to when certain tanks with a capacity of 550 gallons or less and those with a capacity of 551 to 1000 gallons that meet tank diameter requirements may use manual tank gauging as sole method (without tank tightness testing) as release detection. **§280.41(a)(2)).**
	140 1 b	Requirements for petroleum UST systems - tank release detection	Changes reflect EPA addition to clarify that tanks installed on or after September 15, 2010 must be monitored for releases at least every 30 days in accordance with 9VAC25-580-160 7. **§280.41(a)(2).**
	140 2 a	Requirements for petroleum UST systems - piping release detection	Changes reflect EPA clarification that piping installed before September 15, 2010 must meet one of the listed requirements for release detection. **§280.41(b)(1).**
	140 2 a & 2 b and subdivisions	Requirements for petroleum UST systems - piping release detection	Requirements for piping release detection have not changed but have been renumbered.
	140 2 b	Requirements for petroleum UST systems - piping release detection	Changes reflect EPA additions that piping installed or replaced on or after September 15, 2010 must meet certain requirements. **§280.41(b)(2).**
	140 2 b (1)	Requirements for petroleum UST systems - piping release detection	Changes reflect EPA additions that pressurized piping must be monitored for releases at least every 30 days in accordance with 9VAC25-580-160 7 and be equipped with an automatic line leak detector in accordance with 9VAC25-580-170 1. **§280.41(b)(2)(i).**
	140 2 b (2)	Requirements for petroleum UST systems- piping release detection	Changes reflect EPA additions that suction piping must be monitored for releases at least every 30 days in accordance with 9VAC25-580-160 7 and no release detection is required for suction piping that meets the requirements found in 9VAC25-580-140 2 a (2) (a) – (e). **§280.41(b)(2)(ii).**

150		Requirements for hazardous substance UST systems	Changes reflect EPA changes to replace the term “release detection” with “containment” for hazardous substance USTs, and to require owners and operators to monitor these systems every 30 days in accordance with 9VAC25-580-160 7. Also extensive renumbering throughout the section. **§280.42.**
150 1		Requirements for hazardous substance UST systems - secondary containment	Changes reflect EPA changes to remove references to 1998 upgrades and phase in schedules associated with the original upgrade deadlines because the upgrade deadlines passed more than ten years ago. **§280.42(a).**
	150 1 a	Requirements for hazardous substance UST systems	Changes reflect EPA clarification that this subdivision refers to “leaks” and not “releases” from the “primary containment” not the “tank system.” **§280.42(a)(1).**
150 1		Note	Changes reflect EPA clarifications that the Note applies to tanks installed before September 15, 2010. **§280.42(a).**
	150 2 a	Requirements for hazardous substance UST systems	Changes reflect EPA clarifications to use the term “leak” in place of “release.” Also subdivisions have been renumbered. **§280.42(b)(1).**
	150 3 - 5	Requirements for hazardous substance UST systems	Requirements have not been changed but have been renumbered.
	150 4	Requirements for hazardous substance UST systems	Changes reflect EPA deletions of “subdivision 2 a” and the term “jacketing.” **§280.42(d).**
	150 5	Requirements for hazardous substance UST systems- other methods of release detection	This section has been revised in response to revisions to the federal UST regulation to clarify that only those hazardous substance USTs installed before September 15, 2010 may use “other methods of release detection.” **§280.42(e).**
160		Methods of release detection for tanks	Minor clarifications made concerning Virginia building code permit requirements. (Clarifications are consistent with the requirements of 13VAC5-63.) Also a citation was corrected in response to §160 9 being renumbered.
160 1		Note	Changes reflect EPA revisions to update industry code of practice. **§280.43(a).**
160 2 a		Methods of release detection for tanks - manual tank gauging	Changes reflect EPA revisions to manual tank gauging requirements and chart amendments. Replaced the terms “of at least 36 hours” with “using the appropriate minimum duration of test value in the table below.” **§280.43(b)(1).**
160 2 d		Methods of release detection for tanks	Changes reflect EPA amendments to change the manual tank gauging chart to provide a minimum test duration, differentiate testing requirements based on tank diameter; and address periodic tank tightness testing. **§280.43(b)(4).**
160 2 e		Methods of release detection for tanks	Changes reflect EPA amendments to clarify that owners and operators may use manual tank gauging for certain USTs based on

			tank gallonage and diameter. **§280.43(b)(5).**
160 4 b		Methods of release detection for tanks - Automatic tank gauging	Changes reflect EPA amendments to clarify that automatic tank gauging must meet certain requirements. **§280.43(d)(2).**
	160 4 c (1) and (2)	Methods of release detection for tanks - Automatic tank gauging	Changes reflect EPA's new testing requirements that add new technologies for automatic tank gauging systems. This section has been revised to be consistent with the federal UST regulation. **§280.43(d)(3)(i) and (ii).**
160 7 a		Note	Changes reflect EPA deletion of this Note. **§280.43(g)(1).**
	160 8 a, b and c	Methods of release detection for tanks - Statistical Inventory reconciliation	The VA UST Regulation has been modified to include the addition of statistical inventory reconciliation as a release detection method in response to EPA including this method in the federal UST regulation. **§280.43(h)(1)-(3).**
	160 9	Methods of release detection for tanks	Section renumbered to accommodate new subsection 8.
170		Methods of release detection for piping	Minor clarifications made concerning Virginia building code permit requirements. (Clarifications are consistent with the requirements of 13VAC5-63.)
170 1		Methods of release detection for piping	Changes reflect EPA's replacement of the statement "the manufacturer's requirements" with a reference to the automatic line leak detection section of the VA UST Regulation, 9VAC25-580-130 A 3 c. **§280.44(a).**
170 3		Methods of release detection for piping	Edits reflect EPA's changes that except as required in the tank release detection section of 9VAC25-580-140 1, any of the methods in 9VAC25-580-160 5 through 9 may be used for piping. **§280.44(c).**
180 1		Release detection recordkeeping	Regulatory language has been revised to reflect EPA's changes regarding site assessment recordkeeping. The recordkeeping requirements conform to the requirements found in **§280.45(a).**
	180 2 a, b and c	Release detection recordkeeping	Regulatory language has been revised to reflect EPA's changes and clarifications regarding the length of time that release detection testing records must be kept. Requirements have been renumbered. **§280.45(b)(1)-(3).**
	190 2 a, b and c	Reporting of suspected releases	Regulatory language has been revised to reflect EPA's changes and clarifications regarding what constitutes a reportable "suspected release." Requirements have been renumbered. **§280.50(b)(1)-(3).**
	190 3 b (1) – (2)	Reporting of suspected releases	Regulatory language has been revised to reflect EPA's additions regarding leaks to secondary containment. Requirements have been renumbered. **§280.50(c)(2)(i)-(ii).**
	190 3 c	Reporting of suspected releases	Regulatory language has been revised to reflect EPA's changes and clarifications regarding release detection monitoring results. **§280.50(c)(3).**
	190 3 d	Reporting of suspected releases	Regulatory language has been revised to reflect EPA's additions regarding release

			detection alarm investigations**. §280.50(c)(4).**
210 1		Release investigation and confirmation steps	Regulatory language has been revised to reflect EPA's additions regarding release detection secondary containment testing. **§280.52(a).**
	210 1 a (1) - (2)	Release investigation and confirmation steps	Regulatory language has been revised to reflect EPA's additions regarding the system test required for release investigation and confirmation**. §280.52(a)(1)(i)–(ii).**
	210 1 b - d	Release investigation and confirmation steps	Regulatory language has been revised to reflect EPA's clarifications and additions regarding requirements if a release or leak is confirmed. Requirements have been renumbered. **§280.52(a)(2)-(4).**
310 1		Temporary closure	Regulatory language has been revised to reflect EPA's clarifications regarding temporary closure requirements if a tank is empty. **§280.70(a).**
320 3		Permanent Closure and changes-in-service	Regulatory language has been revised to reflect EPA's clarifications regarding permanent closure requirements. **§280.71(b).**
320		Note	EPA revised and added codes of practice that may be used to comply with this section. The note in this section is identical to the note found in **§280.71.**
370 E		Delivery Prohibition	Added Part "X" to this section to clarify that delivery prohibition applies to the USTs covered in Part X.
	Part X, sections 380 and 390	UST Systems with Field-Constructed Tanks and Airport Hydrant Fuel Distribution Systems	This Part has been added to reflect EPA's new requirements addressing UST Systems with Field-Constructed Tanks and Airport Hydrant Fuel Distribution Systems. The requirements found in this section conform to the requirements detailed in the federal UST regulations found in Part 280, Subpart K, except the definitions contained in §280.250 have been included in the VA UST Regulation's definition section: 9VAC25-580-10. Additional language not found in Part K of the federal regulation has been added to Part X to clarify that delivery prohibition applies to USTs regulated under Part X. Additional language has also been included in Part X to clarify that subsection 390 D 1 applies to field-constructed tanks that are part of airport hydrant systems and shop fabricated USTs that are part of airport hydrant systems. This language has been included to avoid confusion concerning how these previously deferred USTs are now regulated. **§280.250 to 252.**
Throughout			EPA is replacing "Resource Conservation and Recovery Act" with the "Solid Waste Disposal Act" in order to encompass all amendments to federal law. **These changes are reflected throughout the VA UST Regulation.**
Throughout			EPA's regulation describes the effective

			date of the requirements as either “on or before” the effective date of the amendment or “after” the effective date of the amendment. Throughout the VA UST Regulation, the effective date of the regulatory requirements is described as “before” or “on or after” the effective date of the regulation. The effective date becomes the first date the regulated community must comply which corresponds with the implementation of the agency’s regulatory programs. **These changes are reflected throughout the VA UST Regulation.**
Throughout			EPA is replacing the term “ground water’ with “groundwater” in 40 CFR 280. **These changes are reflected throughout the VA UST Regulation.**
Throughout			EPA has clarified use of the terms “release” and “leak” in 40 CFR 280. **These changes are reflected throughout the VA UST Regulation.**
Throughout			EPA is replacing the term “noncorrodible” with “non-corrodible” in 40 CFR 280. **These changes are reflected throughout the VA UST Regulation.**
Throughout			EPA has renamed the term “industry codes” to “codes of practice” throughout the federal UST regulation for clarification. **These changes are reflected throughout the VA UST Regulation.**
Throughout			Removed references to Appendix I and II.
Throughout			EPA has renamed the term “codes and standards” to “codes of practice” for clarification. **These changes are reflected throughout the VA UST Regulation.**
Throughout			The words “one-eighth” are being replaced with “1/8” to be consistent with the Virginia Register’s style manual. **These changes are reflected throughout the VA UST Regulation.**
Appendix I			Appendix I is being deleted. The form previously contained in this Appendix has been revised and moved to the form section of the VA UST Regulation.
Appendix II			Appendix II is being deleted. This information is now contained in a Note to §70 of the VA UST Regulation.

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Current section number	**Proposed new section number, if applicable**	**Current requirement**	**Proposed change and rationale (Bold text indicates federal regulatory citation that corresponds to state regulation that is being amended)**
10		Definitions	The definition of “Accidental Release” was modified to be consistent with definitions found in 40 CFR 280.92. The definitions for “Petroleum marketing firms” and “Responsible Person” were removed from

			the FR Regulation. The definition of "Chief Financial Officer" was added to the FR Regulation. These changes were made to be consistent with defined terms found in **§280.92.**
	15	Applicability of Incorporated References Based on the Dates That They Became Effective.	This new section has been added to specify the applicable date of federal regulations that are incorporated by reference into the FR Regulation. All references to 40 CFR will be the version of the CFR as of the date specified in this section.
20 B		Applicability	Regulatory language has been changed to reflect EPA's deletion of the compliance date language in this section. **§280.90(b).**
20 D		Applicability	Regulatory language has been changed to update applicable code sections to correspond to EPA changes made to **§280.90(d).**
30		Compliance dates	Regulatory language has been changed to reflect EPA's minor language changes and EPA's changes to address requirements for previously deferred UST systems. Subsections 1-6 have been deleted to reflect EPA changes in **§280.91**.
40 A		Amount and Scope of FR	Regulatory language has been changed to add the phrase "at least" to conform to existing federal requirements. **§280.93(a).**
40 F		Amount and Scope of FR	Regulatory language has been changed to add subsection "B" to conform to existing federal requirements. **§280.93(d)(3).**
160 B 6		Recordkeeping	Regulatory language has been changed to update applicable code sections to correspond to EPA changes made to **§280.111(b)(9)(iii).**
160 B 8 a		Recordkeeping	Regulatory language has been changed to add the citation to "9VAC25-580-210" to conform to existing federal requirements. **§280.111(b)(11)(i).**
180		Release from FR requirements	Regulatory language has been changed to reflect EPA's requirement that financial responsibility must be maintained until the UST has been permanently closed or undergoes a change-in-service. **§280.113**.
260		Word or phrase substitutions	This section was renamed "Modifications to language incorporated by reference" to be more descriptive of the section. The section identifies places where the language incorporated by reference has been modified to reference specific terms or citations to Virginia's regulations. One

			reference to a citation was removed since it was no longer applicable. A reference to an additional citation mentioned in the federal regulation was added and an existing citation was corrected.
Appendix I		Letter from chief financial officer	Appendix I language has been changed to reflect EPA's minor language changes. **§280.95.**
Appendix I		Alternative II	The text "9VAC25-590" was inserted as a technical correction to reference a specific regulation.
Appendix II (7)		Guarantee	Appendix II (7) language has been changed to replace "shall" with "must" to conform to existing federal requirements. **§280.96(c)(7).**
Appendix VII		Trust Agreement	Technical corrections were made to sections 11 and 14 to correct previous errors in section number references.
Appendix XI		Letter from chief financial officer- short form	Appendix XI language has been changed to be consistent with Appendix I changes noted above. **§280.95.**
Throughout			EPA is replacing the term "ground water' with "groundwater" in 40 CFR 280. **These changes are reflected throughout the FR Regulation.**
Throughout			EPA is replacing "Resource Conservation and Recovery Act" with the "Solid Waste Disposal Act" in order to encompass all amendments to federal law. **These changes are reflected throughout the FR Regulation.**
Throughout			References to the year (1997) following 40 CFR citations have been removed. A new section was added to the FR Regulation (§15) to reference the version of the federal CFR that is being incorporated into the FR Regulation.